BUILDING THE FUTURE
A Time for Reconciliation

ABRIDGED REPORT

Gérard Bouchard
Charles Taylor

dialogue makes a difference

Québec

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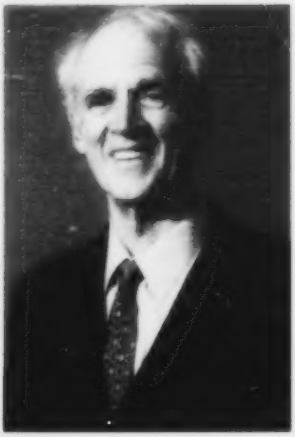

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ACRONYMS AND INITIALISMS

Acronym or initialism	Signification
CDPDJ	Commission des droits de la personne et des droits de la jeunesse
CEGEP	college of general and vocational education
CLSC	local community service centre
CPE	childcare centre
CSSS	health and social services centre
SAAQ	Société de l'assurance automobile du Québec
YMCA	Young Men's Christian Association

GLOSSARY

Readers who are seeking clarification of the meaning of the terms used are encouraged to refer to the glossary in Appendix C of the full report.

INTRODUCTORY NOTE

Instead of complying with the common rule concerning the generic masculine form, we have attempted to use neutral terms or expressions that refer both to women and men. This rule has been applied where possible without making the text unwieldy.

SUMMARY[1]

INTRODUCTION 5

SECTION I
THE COMMISSION 7
A. Mandate 7
B. Our investigation 9
C. General orientations of the report 10

SECTION II
A CRISIS OF PERCEPTION 13
A. The chronology of events 13
B. Facts and perceptions 17
C. Dissatisfaction with accommodation 21

SECTION III
THE STATE OF HARMONIZATION PRACTICES 23
A. The rationale for reasonable accommodation 23
B. Harmonization practices in the field 27

SECTION IV
SOCIETAL NORMS OFFER A FRAME OF REFERENCE 35
A. Existing guidelines 35
B. Integration and interculturalism: a model to be clarified 39
C. A secular regime for Québec 43

1. It should be noted that the section numbers in the abridged report do not refer to the chapter numbers in the full report.

SECTION V
A PROPOSED POLICY RESPECTING HARMONIZATION PRACTICES 51
A. Reasonable accommodation and concerted adjustment 51
B. Three types of guidelines 53
C. Two controversial questions 56
D. Some illustrations 59

SECTION VI
RESPONSES TO CURRENT OBJECTIONS 65

SECTION VII
AN EVOLVING QUÉBEC 73
A. Anxiety over identity 73
B. The challenge posed by diversity in the West 76
C. Inequality and discrimination 78
D. Looking to the future 85

SECTION VIII
PRIORITY RECOMMENDATIONS 91

CONCLUSION 93

INTRODUCTION

As everyone has observed over the past year, Quebecers are divided on the question of accommodation and a number of related topics. There appears to be general agreement solely in respect of the promotion of French and equality between women and men. As for secularism, which everyone proclaims or demands, it proves to be highly controversial as soon as an attempt is made to clarify the terms of the desired regime. As we have also observed, emotion has entered the picture, creating tensions that we must now resolve.

This is the key objective that we set for ourselves. Having discussed at great length what separates us, it is now time to explore the other facet of what we are and what we can become. This other facet comprises deep-seated values, the aspirations that we share and that we would like to express in policy directions, programs and unifying projects. Having clearly specified our differences, let us now examine what unites us. Let us turn to this other facet, which is vast and promising.

We cannot overemphasize what our consultations have revealed, beyond well-known hitches, i.e. openness to the Other. The vast majority of the briefs submitted and the testimony heard confirm this point. Both in the regions and in Montréal, we observed a wealth of good faith and willingness. This is the foundation on which we must rely to pursue the edification of an integrated Québec that respects its diversity.

The time has come for reconciliation. This is the meaning of this report, inspired by a search for balance and fairness, in a spirit of compromise. The task has not been an easy one. We often had to carefully chart a course between contradictory positions or between competing values and ideals but we constantly sought to clarify the terms of the debate. Throughout this undertaking, the serious responsibility placed on us was uppermost in our minds, given the hopes and expectations that our commission aroused.

SECTION I
THE COMMISSION

A. Mandate

On February 8, 2007, Québec Premier Jean Charest announced the establishment of the Consultation Commission on Accommodation Practices Related to Cultural Differences in response to public discontent concerning reasonable accommodation. The Order in Council establishing the Commission stipulates that it has a mandate to: *a*) take stock of accommodation practices in Québec; *b*) analyse the attendant issues bearing in mind the experience of other societies; *c*) conduct an extensive consultation on this topic; and *d*) formulate recommendations to the government to ensure that accommodation practices conform to the values of Québec society as a pluralistic, democratic, egalitarian society.

MANDATE OF THE COMMISSION

a) take stock of harmonization practices in Québec

b) analyse the issues bearing in mind the experience of other societies

c) conduct an extensive consultation

d) formulate recommendations to the government

We could have broached the Commission's mandate, as defined, in two ways, i.e. in a broad sense or in a narrow sense. The narrower sense would consist in confining the Commission's deliberations to the strictly legal dimension of reasonable accommodation. This notion, which stems from jurisprudence in the realm of labour, indicates a form of arrangement or relaxation aimed at ensuring respect for the right to equality, in particular in combating so-called indirect discrimination, which, following the strict application of an institutional standard, infringes an individual's right to equality. In general language, the meaning of the concept has gone beyond this legal definition and encompasses all forms of arrangements allowed by managers in public or private institutions in respect of students, patients, customers, and so on.

The second approach to the Commission's mandate would be to perceive the debate on reasonable accommodation as the symptom of a more basic problem concerning the sociocultural integration model established in Québec since the 1970s. This perspective calls for a review of interculturalism, immigration, secularism and tl. theme of Québec identity. We decided to follow the second course in order to grasp the problem at its source and from all angles, with particular emphasis on its economic and social dimensions. The school-to-work transition and professional recognition, access to decent living conditions and the fight against discrimination are indeed essential conditions for the cultural integration of all citizens into Québec society. Furthermore, it is these questions that concern Quebecers and that sustained debate, as everyone observed throughout our consultations.

It is with regret that we had to remove from out mandate the aboriginal question. To assume this responsibility, we would have had to receive a proper mandate from the Québec government and the First Nations and Inuit. Pursuant to two resolutions that the Québec National Assembly adopted, aboriginal affairs must be discussed "between nations." As for the English-speaking minority, which is part of the host society and is experiencing fully ethnocultural diversity, we wish to specify that, while we did in the course of our deliberations examine Québec society's integration model, the specific status of this minority was not called into question.

B. Our investigation

The Commission had at is disposal a budget of $5 million, which enabled it to carry out a number of activities.

To sustain our reflection, we commissioned 13 research projects conducted by specialists from different Québec universities. A number of research instruments were developed, including a typology designed to classify the arguments in the briefs submitted and the e-mails that we analysed. We organized 31 focus groups with individuals from different milieus in

Montréal and the regions. We held 59 meetings with experts and representatives of sociocultural organizations. We also set up an advisory committee comprising 15 specialists from various disciplines.

As for the public consultations, we commissioned four province-wide forums in Montréal, organized by the Institut du Nouveau Monde, in which over 800 people participated. The Commission held sessions in 15 regions, in addition to Montréal, for a total of 31 days of hearings. The public responded very generously to our appeal by submitting more than 900 briefs. We read all of these texts and discussed them with their authors during 328 individual hearings, after which we heard testimony from 241 individuals. Between August 2007 and January 2008, the Commission also operated a Website that afforded the public opportunities to engage in exchanges (over 400 000 visits).

THE CONSULTATION IN A NUTSHELL

- hearings were held in 15 regions in addition to the Montréal area
- over 900 briefs were submitted
- 241 participants testified
- 22 regional forums were organized
- four province-wide forums were held
- the Commission's Website received over 400 000 visits

In the centres where hearings were held, we organized 22 evening citizens' forums open without restriction to the public and broadcast live or prerecorded by a number of television networks, which attracted a total of 3 423 participants. Each forum, which lasted for nearly three hours, afforded, on average, 40 participants from all social backgrounds to take the floor and express their opinions.

C. General orientations of the report

The general orientations indicated below underlie the analyses and conclusions of our report.

1. We will not propose either breaks or radical shifts. For each of the themes examined, our reflections and proposals will reflect Québec's sociocultural development in recent decades. The reason for this orientation is simple. Having taken stock of everything that we have learned and understood over the past year, we have concluded that the foundations of collective life in Québec are not in a critical situation. What we are facing, instead, is the need to adapt. Another factor makes a good case for continuity. Our society is sufficiently divided at present and we must seek to reduce splits and tensions instead of exacerbating them. The time has come for compromise, negotiation and balance.

2. We will conduct our analyses and elaborate our recommendations in respect of Québec overall rather than the Greater Montréal area, although 86.9% of the immigrant population is concentrated there. The presence of immigrants outside Montréal is growing and this trend is likely to continue in the coming years, thus reducing the gap between Montréal and the regions.

3. From the standpoint of accommodation, we will emphasize as much as possible citizen action and the responsibility of individual and community interveners to encourage deliberation, free initiative and creativity in the analysis of situations. Almost without exception, we will give priority to this type of solution rather than external solutions in the form of new legislation or new organizations. This guideline will lead us to favour the dejudicializing and decentralization of the process of handling requests for adjustment.

4. Readers should bear in mind that our reflection is delineated by the basic societal choices that Quebecers have made in recent decades. Their low birthrate and desire to sustain demographic and economic growth have led them to opt for immigration. At the same time, many Quebecers have abandoned religious practice and have distanced themselves from the French-Canadian identity in favour of the new Québec identity. They have also decided (until further notice) to belong to Canada and, consequently, to come under the jurisdiction of its institutions. They have undertaken the shift to globalization and, as the common expression would have it, "openness to the world."

5. We will also pay close attention to the suggestions and proposals that Quebecers made during our public and private consultations. However, it stands to reason that we cannot follow up on all of the suggestions and proposals, mainly because of their often incompatible nature. Indeed, there is deep disagreement on many topics related to our mandate.

GENERAL ORIENTATIONS OF THE REPORT

a) Reflect Québec's sociocultural development in recent years.
b) Elaborate recommendations in respect of Québec overall.
c) Emphasize citizen action.
d) Take into account Quebecers' basic societal choices.
e) Pay close attention to Quebecers' suggestions and proposals.
f) Allow for the public expression of differences.
g) Emphasize integration in a spirit of equality and reciprocity.

6. In the realm of ethnocultural diversity, we will adopt a train of thought and proposals designed to allow for the public expression of differences such that they can be assimilated and accepted, instead of concealing, marginalizing or suppressing them for whatever reason.

7. The theme of [illegible] will guide our analyses and proposals. This concern will imbue the entire debate on accommodation and all of the questions stemming from it.

SECTION II
A CRISIS OF PERCEPTION

As we have just noted, after a year of research and consultation, we have come to the conclusion that the foundations of collective life in Québec are not in a critical situation. If we can speak of an "accommodation crisis," it is essentially from the standpoint of perceptions. Indeed, our deliberations did not reveal to us a striking or sudden increase in the adjustments or accommodation that public institutions allow, nor did we observe that the normal operation of our institutions would have been disrupted by such requests. We did, of course, observe occasional friction points, doubts and dissatisfaction, but nothing that confirms that the overall situation might be uncontrollable, eloquently confirmed by the very small number of accommodation cases that end up before the courts.

Since the overall situation is not critical, how can we explain that the Québec government deemed it necessary to establish a commission to examine the "problem" of accommodation? To answer this question, we must reconstruct the chain of events that led to what we are calling a crisis of perception. In this way, we can pinpoint the circumstantial causes that have encouraged a significant number of Quebecers to adopt a very negative judgment of accommodation practices, even to the extent of believing that they threaten social order and our most basic values.

A. The chronology of events

The history of public debate in Québec on the question of reasonable accommodation can be divided into four periods. The number and type of cases and the intensity of public debate are the key criteria that define the periods. The chronology that we have established comprises 73 cases or incidents and covers roughly 22 years, from December 1985 to April 2008. Readers who wish to consult the list and description of all of the cases can do so in the full version of the report. We will confine ourselves here to a number of general observations.

1. Antecedents (from December 1985 to April 2002)

During this period, we noted 13 accommodation cases reported in the media. Our first observation is that all of the cases, with one exception, involved reasonable accommodation in the literal sense. In each case, legal or quasi-legal bodies were involved, i.e. the Commission des droits de la personne et des droits de la jeunesse (CDPDJ), the Tribunal des droits de la personne du Québec, the Montréal Municipal Court, the Superior Court of Québec, the Federal Court of Appeal, and the Supreme Court of Canada. Generally speaking, the public discovered during this period the new legal obligations stemming from changes in jurisprudence and the coming into force of the charters. In 1994, the wearing of the Muslim headscarf was the focus of debate that led the CDPDJ to formulate an opinion on the question in 1995. Aside from this topic, no striking controversy emerged concerning the very validity of accommodation practices.

2. The intensification of controversy (from May 2002 to February 2006)

This second period marks a turning point in debate on accommodation. It began with the announcement of the Superior Court of Québec judgment concerning the wearing of the kirpan, which had a significant impact on public opinion. Debate surrounding the application of sharia, especially in Ontario, also largely fuelled the controversy. The events of September 11, 2001 were still very much on people's minds: a social context permeated by suspicion and insecurity developed. Certain accommodation cases led to legal escalation: the decisions of lower courts were appealed, occasionally before the Supreme Court. What began as local cases became veritable issues whose legal developments society monitored closely. Another novelty was the emergence of topics of dispute such as the debate on Christmas trees, which are not, in a literal sense, a form of reasonable accommodation.

3. A time of turmoil (from March 2006 to June 2007)

MEDIA COVERAGE OF ACCOMMODATION
Of the 73 cases or affairs that we inventoried over the past 22 years, 40 occurred during what we have called "a time of turmoil," equivalent to roughly 55% of the cases for the period from March 2006 to June 2007 alone.

This third period is noteworthy for the proliferation of cases or affairs reported in the media. During this 15-month period alone, we noted roughly 40 cases, compared with 13 and 12 cases, respectively, during the two preceding periods. These figures reflect the much more active role that the media began to play in respect of the accommodation question. The term accommodation entered public discourse and from then on became a hackneyed expression. Debate was no longer confined to the question of minority religious practices but now encompassed the much broader question of the integration of immigrants and minorities. A phenomenon that had begun to emerge during the preceding period now became fully apparent: part of the population reacted to accommodation requests as though it felt wronged by what it perceived to be "privileges." In January 2007, the leader of the ADQ released a letter in which he denounced the political leaders' submission and the "old reflex of the minority" that encourages Quebecers to "give in" and "collectively fade into the background." Hérouxville's notorious life standards were adopted shortly thereafter. The accommodation crisis reached its height in March 2007 in the weeks preceding the provincial election: accommodation had become a social issue on which politicians made almost daily pronouncements.

4. A period of calm (from July 2007 to April 2008)

The onset of summer and the beginning of the Commission's deliberations coincided with a marked change in the coverage accorded accommodation. During this period, the media reported only eight cases or affairs, four of them outside Québec. Coverage of these cases was also much more reserved. The tragic story of the young Ontario Muslim girl killed by her father, which might well have been expected to arouse passions, illustrates this restraint. The "accommodation hunt" having ended, public attention turned to the Commission's deliberations and the content of its public consultations. It appears *a posteriori* that the establishment of the Commission calmed things down.

We have drawn the following conclusions from the chronology of events:

a) Of the 73 cases or affairs that we inventoried over the past 22 years, 40 occurred during what we have called "a time of turmoil," equivalent to roughly 55% of the cases for the period from March 2006 to June 2007 alone.

b) This statistic reveals the exceptionally intensive nature of the media coverage accorded reasonable accommodation during this period.

c) The explanation that the number of cases debated by the media appears to reflect the number of accommodations granted in the field is unconvincing. This would assume that the number of accommodations granted increased exponentially in the spring of 2006 and declined drastically starting in June 2007. This hypothesis does not tally with the data and testimony that we collected.

B. Facts and perceptions

During the time of turmoil, many cases or affairs led a significant number of Quebecers to adopt a very negative perception of reasonable accommodation. These cases or affairs focused usually on accommodation or adjustments perceived as being illegitimate or a form of threat to Québec society's values.

In order to clarify the situation, the Commission mandated two researchers who devoted over four months to reconstructing as rigorously as possible the facts based on a sampling of 21 cases among those that received the broadest media coverage and that fuelled most extensively the controversy. The researchers questioned the interveners and witnesses and relied on the documentation available.

Our research reveals that in 6 of the 21 cases studied, there was no apparent distortion between the facts reconstructed and the public's general perception of these cases. However, we noted striking distortions in the other 15 cases. Thus, the negative perception of reasonable accommodation that spread in the public often centred on an erroneous or partial perception of practices in the field. Here are five examples that illustrate the extent of these distortions. The full report contains an analysis of the other cases.

THE COMMISSION INVESTIGATES

Two researchers mandated by the Commission reconstructed the facts based on a sampling of 21 cases among those that received the broadest media coverage by relying on the documentation available and questioning interveners and witnesses. In 15 of the cases, our research revealed striking discrepancies between the facts and widespread public perceptions.

1. Prenatal classes at the CLSC de Parc-Extension

Widespread perception: Men who accompanied their spouses to prenatal classes offered by the CLSC de Parc-Extension were excluded from the courses at the request of Muslim women who were upset by their presence.

The reconstructed facts: During the day, the CLSC de Parc-Extension organizes support and information meetings adapted to its clientele in the neighbourhood, which is very poor and mainly comprises immigrants, who have difficulty consulting health services. Prenatal care is one of the topics broached at these meetings. This service is used, above all, by immigrant women, but men are not excluded from it. Evening prenatal courses for expectant mothers and their spouses are offered in the two other CLSCs affiliated with the Centre de santé et de services sociaux de la Montagne.

2. The "directive" from the Société de l'assurance automobile du Québec

Widespread perception: The management of the Société de l'assurance automobile du Québec (SAAQ) has ordered its female driving examiners to relinquish their place to a male colleague when Orthodox Jews take their driving test.

The reconstructed facts: An SAAQ "accommodation guide" indicates the internal directives concerning the "exemption from the wearing of headgear for religious or medical reasons when a photograph is taken." This guide also provides an example of accommodation related to the driving test, i.e. the case of a female Muslim client who wishes to take the practical test with a female driving examiner. The guide explains that the SAAQ can respond to such requests "if a female driving examiner is available at the time." Otherwise, "an accommodation appointment may be granted at a later date since the centre is not required to reschedule other clients or to upset the test schedule to

acquiesce *immediately* to such a request when it is not possible to do so." The guide also specifies that "reasonable accommodation does not, therefore, apply when the request contradicts another right, e.g. the right to gender equality, the infringement of public order, or the safety of the premises and individuals."

3. The Mont-Saint-Grégoire sugarhouse

Widespread perception: Muslims arrived one morning at the sugarhouse and demanded that the menu be altered to conform to their religious standard. All of the other customers were therefore obliged to consume pea soup without ham and pork-free pork and beans. In the afternoon, the same Muslims entered the crowded dance hall and interrupted the festivities to recite their prayers. The customers in the dance hall were in a manner of speaking expelled from the sugarhouse.

The reconstructed facts: One week before the outing, a representative of Astrolabe, a Muslim association, met with the sugarhouse's owners to discuss certain changes to the menu, which would apply solely to the members of the group. The modified menu excluded pork meat but included halal sausage and salami provided and paid for by Astrolabe. This arrangement having been made, the association reserved one of the four dining rooms in the sugarhouse for its exclusive use. On the appointed day, after the meal, 40-odd members of the group moved several tables and chairs in the room reserved for them for a short prayer. The management of the sugarhouse wanted to free up the room as quickly as possible (business was brisk and nearly 300 customers were waiting to be seated) and proposed to those individuals who wished to pray that they use instead the dance hall, which was almost empty at that time. The dance hall can accommodate roughly 650 people and 30 customers were then in the room, some of them waiting to be seated in the dining room. Several young girls were dancing to popular music.

The management of the sugarhouse interrupted the music so that the Muslim customers could say their prayers, which took less than 10 minutes. The music then resumed. According to the management, no one was expelled from or asked to leave the dance hall.

4. Certified kosher food

Widespread perception: In the food sector, many firms secretly modify their recipes and invest heavily to make their products conform to Orthodox Jewish religious standards, which occasions a substantial price increase that consumers assume unwittingly. In Québec, the increase is on the order of several tens of millions of dollars and perhaps more each year. The companies and the rabbis share these revenues.

The reconstructed facts: No authoritative comprehensive study currently exists on the topic. However, we do have at our disposal testimony and partial but reliable overviews that clearly establish that *a*) the interest that businesses display in kosher certification reflects marketing strategies that cover a portion of the United States; *b*) the additional costs that consumers must assume are very minimal; *c*) kosher certification may require companies to modify certain production procedures, e.g. additional washing, but not to modify the composition of their products; and *d*) rabbis do not profit by certification.

5. Home health care

Widespread perception: On the Sabbath, nurses from the CLSC Thérèse-de-Blainville must provide home health care for patients from the Boisbriand Hasidic Jewish community. They must also comply with a specific dress code when intervening in the community.

The reconstructed facts: The Boisbriand Hasidic community represents 1.7% of the population served by the CLSC de Thérèse-de-Blainville, while home health care services in this community account for 0.1% of all home health care measures. To be accepted, home health care must be medically prescribed. CLSC nurses are not subject to any dress code. The CLSC has already rejected several accommodation requests and claims that it has for several years maintained very good relations with the Hasidic community.

C. Dissatisfaction with accommodation

We have thus observed with respect to a majority of cases that aroused controversy significant distortions between facts and perceptions. Given this observation, we can only ask ourselves what form debate would have taken if the public had obtained complete, objective information. The most likely hypothesis is that an accommodation crisis would not have arisen. Two sources of distortions clearly contributed to the perception crisis: the well-known phenomenon of the rumour and the media, which participants at the forums and hearings often criticized and several representatives of which engaged in fairly harsh self-criticism. However, we cannot explain by means of these factors alone Quebecers' astonishing reaction. With the help of debate on accommodation, Quebecers have engaged in self-examination and questioned themselves as never before perhaps since the Quiet Revolution. We will return to this aspect of the problem in section VII.

To all appearances, the key signs of dissatisfaction came from Quebecers of French-Canadian origin. It is difficult to precisely quantify within this group the opponents and proponents of accommodation, but it does appear that the former were more numerous than the latter. This is the picture that emerges from letters and comments that appeared in the media and the opinions expressed by focus groups that we organized in Montréal and the regions, and the findings of several surveys. On the other hand, the English-speaking

Québec community appears to have displayed general receptiveness to accommodation, as revealed by the SOM survey conducted in September and October 2007 on behalf of a Montréal daily newspaper: 71.7% of the Quebecers whose mother tongue is French questioned found our society overly tolerant of accommodation. Among Quebecers whose mother tongue is a language other than French (including allophones), the proportion was 35.2%.

Numerous arguments revealed dissatisfaction with accommodation. Among its research initiatives, the Commission produced a typology elaborated in light of all of the objections that the public has put forward concerning accommodation. In section VI, we review the key objections and respond to them. For the time being, we will confine ourselves to pointing out that by expressing its dissatisfaction with accommodation, the public often chose the wrong target. Indeed, immigrants and members of the ethnic minorities had nothing to do with several cases such as the Christmas tree at City Hall, the pseudo-directive from the Service de police de la Ville de Montréal, voting by individuals wearing the veil, and so on, and were unfairly blamed in several other cases such as the sugarhouse, prenatal courses, kosher food or home health care.

COULD THE CRISIS HAVE BEEN AVOIDED?

The negative perception of accommodation often stemmed from an erroneous or partial perception of practices in the field. Had the public been more familiar with such practices, perhaps there would not have been an accommodation crisis.

SECTION III
THE STATE OF HARMONIZATION PRACTICES

A. The rationale for reasonable accommodation

Before we examine the reasons for which reasonable accommodation was disparaged, it is a good idea to ask ourselves from whence comes the general idea of accommodation or harmonization. In any society in which two or more cultures intermingle the question of the management of diversity inevitably arises and it has ever been thus. Until recently, it was usually resolved in an authoritarian manner: one more powerful culture attempted either to dominate the others or eliminate them through assimilation. However, practices aimed at relaxation or reconciliation have always existed, even in empires. Mentalities and legislation have changed in recent decades, above all in the West. Democratic nations are displaying greater respect for diversity and are adopting methods of managing coexistence based on an ideal of intercultural harmonization. This ideal is permeating national cultures through an array of procedures and at different paces. Our investigation reveals that in Québec harmonization measures are now part of the day-to-day life of public institutions such as health establishments, schools and universities.

A new sensitivity to human rights and minorities has appeared in the West in recent decades. Democratic nations are more respectful of diversity and are adopting methods of managing coexistence based on an ideal of intercultural harmonization.

At the same time as this change, a new tradition has taken shape in the realm of law. The traditional conception of equality, based on the principle of uniform treatment, has given way to another conception that pays closer attention to differences. Little by little, the law has come to recognize that the rule of equality sometimes demands differential treatment. It is this conception

that the legal provision called reasonable accommodation reflects. Reasonable accommodation stems from the basic principle of equality and fairness and has been current for roughly 25 years. It is intended to counteract certain forms of discrimination that the courts have traditionally qualified as indirect, i.e., which, without directly or explicitly excluding a person or a group of people, nonetheless bring about discrimination in the wake of a prejudicial effect because of the rigid application of a norm.

By way of illustration, consider the rule that prohibits students from bringing syringes into the classroom. While the rule is entirely warranted, it might threaten the lives of diabetic students. In this instance, it is relevant to make provision for the relaxation of the rule. The same logic prevails with regard to the adjustment of certain regulations in the workplace, e.g. the relaxation of a compulsory dress code in the case of pregnant workers. Reserved parking spaces and the installation of access ramps for the disabled fall under the same principle.

REASONABLE ACCOMMODATION IS A LEGAL NOTION
This notion stems from jurisprudence in the realm of labour and indicates a form of relaxation aimed at combating discrimination caused by the strict application of a norm, which, in certain of its effects, infringes on a citizen's right to equality.

The adjustment of rules is thus intended to prevent individuals from being put at a disadvantage or excluded and their right to equality to thus be compromised. In these different situations, the duty of accommodation created by law does not require that a regulation or a statute be abrogated but only that its discriminatory effects be mitigated in respect of certain individuals by making provision for an exception to the rule or a specific adaptation of it. In addition to prohibiting discrimination, the courts are asking managers and employers to seek concrete measures that foster equality. In law, this type of relaxation stems both from the Québec and Canadian charters. Québec courts have explicitly recognized this provision.

Harmonization measures for religious reasons spring from the same logic, always in keeping with the law. For example, let us mention the case of Jews or Muslims who have obtained leave to celebrate their religious holidays in the same way as Catholics, who, almost without exception, have always had permission to be absent from work on Sunday, Christmas Day and at Easter. Here, too, it is the rule of equality or fairness that prevails: what is legitimate for one faith is legitimate for the others. Similarly, to ensure freedom of religion, a secular State may fund chapels in detention centres. Nationality and sexual orientation are other grounds for discrimination that are also covered by the duty of accommodation.

Each of these cases illustrates the logic that underpins harmonization measures. Sociologically speaking, we have observed that a number of apparently neutral or universal norms in actual fact reproduce worldviews, values, and implicit norms that are those of the majority culture or population, such as restaurant, airline or cafeteria menus, which did not previously take into account vegetarians or individuals with allergies. Even if they do not exclude *a priori* any individual or group, these provisions can nonetheless lead to discrimination toward individuals because of specific traits such as a temporary or permanent physical disability, age, or religious belief. It follows that absolute rigour in the application of legislation and regulations is not always synonymous with fairness.

We can thus see that the right to equality and freedom of religion do not necessarily have as a corollary uniformity or homogeneity. According to jurists, a given right may demand adjustments in treatment that must not be equated with privileges or exemptions since they are intended to remedy a flaw in the application of a statute or a regulation. As the experts have expressed it, a treatment can be differential without being preferential.[2]

2. Or, as Clément Claveau stated during the hearings held in Rimouski on October 2, 2007: "Citizens are equal in their differences."

We are thus dealing here with two conceptions not of the right to equality but the procedures for its application, i.e. *a*) a formal, doctrinal, very rigid conception, or *b*) a modulated, flexible conception that is more inclusive because it is more attentive to the diversity of situations and individuals. It is this second conception that Québec, like many other nations, has decided to emphasize.

It is important to note that the duty of accommodation is not limitless. For the duty of accommodation to exist, discrimination as conceived by the charters must first be present. Section 10 of the Québec *Charter of Human Rights and Freedoms* lists 13 grounds for discrimination that may justify an accommodation request. These grounds are mainly circumstantial, such as pregnancy or marital status, or permanent traits such as sex, skin colour or a disability, or sociocultural traits such as religion, language and so on. This first criterion thus excludes from the realm of reasonable accommodation any request not based on a recognized discriminatory ground.

THE DUTY OF ACCOMMODATION IS NOT LIMITLESS
A request may be rejected if it leads to what jurists call "undue hardship," which can take different forms such as unreasonable cost, upsetting an organization's operation, infringing the rights of others, or prejudicing the maintenance of security and public order.

The realism of the request and the ability of the employer or the organization concerned to accommodate the individual are a second, highly restrictive constraint. Jurists use the expression undue hardship to indicate it. Indeed, according to tradition in the realm of labour law, a request may be rejected if it involves an unreasonable cost, upsets the organization's operation, infringes the rights of others or prejudices the maintenance of security and public order.

B. Harmonization practices in the field

THE SITUATION IS UNDER CONTROL

According to the available statistical data and the testimony heard, there is no indication that we might face a striking increase in requests or a so-called domino effect.

As we have just seen, harmonization practices are not a new phenomenon but are part of a legal tradition and general philosophy going back several decades in the West. Our investigation has revealed to us that the managers of Québec establishments such as schools, Cegeps, universities, hospitals and health and social services centres have developed broad expertise in this field. The general impression that we have drawn from practices in the field is that the current situation is under control. The requests for adjustment or accommodation that the managers handle are varied but their number has, by and large, remained relatively small. According to the available statistical data and the testimony that we heard, there is no indication that we might face a striking increase in requests or a so-called domino effect.

Practices in the schools and the health sector provide a clear indication of the expertise that has developed in Québec with respect to the handling of requests for accommodation or adjustment. We will review them briefly, along with practices pertaining to the granting of leave for religious holidays. The full report contains a more detailed description of these practices and those found in other establishments such as Cegeps, universities, childcare centres and health and social services centres.

1. The educational milieu

a) Types of requests

The data collected by the Fleury Committee[3] reveal that requests formulated in the educational milieu are of three kinds. Demands pertaining to linguistic diversity (16% of cases) focus, in particular, on the language of communication between parents and the school and the granting to students whose mastery of the language is limited of additional time to take exams. Requests related to religious diversity (78.2%) are more varied and concern absence for major religious holidays; the wearing under certain conditions of headscarves or kirpans; the reorganization of school work for children weakened by Ramadan fasting; permission for adolescent girls to wear loose clothing instead of shorts in physical education classes, and so on. These requests are often accepted, although requests that would lead to the modification of the program of study and thus violate the *Education Act* are always rejected. Prayer rooms permanently assigned to a religious group are not authorized, nor is the washing of feet in sinks. Requests pertaining to ethnocultural diversity (1.9%) focus primarily on respect for the specific customs of ethnic minorities.

We do not have precise statistics on the extent of requests in the educational milieu. However, a simple calculation reveals that such requests are infrequent. The Greater Montréal area alone has 1000 establishments serving 1 million students. If only 1% of these students formulated an adjustment request each year, this would be equivalent to an annual total of 10 000 requests. According to the data available to us, this figure assuredly exceeds by far the actual situation, even according to the broadest estimates.

3. Bergman Fleury (2007). *Inclusive Québec Schools. Dialogue, Values and Common Reference Points. Report submitted to Québec Minister of Education, Recreation and Sports Michelle Courchesne*. Québec: ministère de l'Éducation, du Loisir et du Sport, 124 pages.

b) Method of handling requests

We note in the educational milieu the emergence of a genuine philosophy that consists in integrating harmonization practices into a general educational support approach. In conjunction with a pedagogical approach centred on the student's development, adjustments become one of a number of factors or variables that must be taken into account. This model emphasizes the importance of a contextual approach, which, alone, makes it possible to grasp the complexity and singularity of situations (the case-by-case approach). This model, which is receptive to the intercultural dimension, avoids marginalizing the student and fosters discussion and compromise solutions that respect core values such as gender equality, freedom of conscience, fairness, and secularism.

2. The health sector

a) Types of requests

Accommodation requests in hospitals, health and social services centres and local community service centres are highly varied. Requests related to language (the need for interpreters) or customs do not usually pose a problem. Certain religious requests are normally accepted, e.g. those focusing on dietary laws, the orientation of the bed toward Mecca for Muslim patients in the last moments of their lives, or the extension of the period that the body of a deceased Jew lies in repose.

APPROACHES CENTRED ON THE INDIVIDUAL

In schools and hospitals, adjustment requests fall under a general approach that takes into account the student's and the patient's individuality.

Other requests lead to compromise solutions. Depending on the availability of space, hospitals endeavour to assign men and women to separate rooms. Where possible, they try to satisfy requests from women who wish to be treated by a female obstetrician. A nurse wearing a headscarf may work in the operating area provided that her headscarf has been sterilized. Practising Jews may store kosher food in a refrigerator for which they have paid. A woman may be accompanied by her spouse at a medical examination conducted by a male caregiver provided that she answers the questions. The hospital outfits a single prayer room for all religions.

However, various demands are rejected. Parents are not allowed to leave the hospital with the body of a dead newborn child or the placenta (it is illegal to do so). Hospitals refuse to extend for up to five or six hours the period that a deceased person lies in repose immediately after death. A parturient individual is not allowed to wear her headscarf during delivery and hospitals do not allow prenatal courses from which spouses are excluded.

Managers and health-care personnel occasionally encounter difficult situations. A Jewish woman who has given birth is prepared to go home but is unable to do so since it is the beginning of the Sabbath and she may not use transportation, although the hospital is short of beds. Because of their religion, parents object to an autopsy being conducted on a deceased child. A Catholic physician does not wish to prescribe birth-control pills. A health professional refuses to perform ultrasonography. A pregnant woman refuses a caesarean, even though her refusal threatens the life of her child.

b) Method of handling requests

Few physicians complain about a lack of guidelines. Such guidelines already exist and are of two kinds, i.e. the professional code governing medical practice and the *Act respecting health services and social services*, which obliges establishments to treat patients or beneficiaries bearing in mind their cultural (in particular, religious) traits. In the realm of medical practice, requests related

to religion are but one constraint among others, such as language, the patient's physical traits, the technical conditions under which the medical procedure is performed, and so on. The notion of the personalization of care and services has thus become pivotal in the health sector. Harmonization practices are part of this general philosophy centred on the patient's physical, psychosocial and spiritual needs. We must add that health professionals have extensive experience of the ethical questions related to their work (the first ethics committees were established in hospitals). Similarly, they possess solid expertise in negotiating value conflicts and rights and in handling intercultural questions.

3. Religious holidays in the workplace

We will conclude our overview of harmonization practices by examining the question of religious holidays, which affects both public institutions and the business sector.

Religious holidays should be granted readily but also without unfairness towards other employees.

The Québec labour market is undergoing extensive change. Numerous immigrants of different ethnic origins and faiths other than Christianity are joining the ranks of an increasingly diversified labour force. In this context, our society is beginning to realize to what extent labour laws and collective agreements reflect our Catholic and Protestant heritage (statutory holidays on Christmas, Good Friday, Easter Monday and Thanksgiving). Individuals of other faiths who have lived for a long time in Québec or newcomers also wish to have recognized the right to celebrate their own religious holidays.

Requests for religious holidays are becoming more frequent in the workplace. Such requests came first from Protestants, practising members of the Jewish community, then other faiths such as Islam and Hinduism. They obtained a legal foundation and broader legitimacy in the wake of a 1994 Supreme Court judgment. Requests for religious holidays are nonetheless few in number but are increasing in all workplaces, especially in Montréal. According to the testimony of several union leaders, they usually rank first among accommodation requests for religious reasons.

Three types of accommodation related to requests for religious holidays are found in the workplace:

a) Paid leave with compensation

This system, found in the Québec government, is apparently the most widespread. It can take various forms, which have in common the refusal to grant any additional paid non-work day. Individuals who request a religious holiday must, for example, draw it from their banked leave, personal holidays or floating personal holidays, and from statutory holidays. They can also undertake to perform the hours of work.

b) Unpaid leave

This system appears to be found primarily in the private sector, in particular in small and medium-sized enterprises.

c) Additional paid leave

This system is in force mainly in the school boards covered by court judgments in the 1990s. We have noted that it arouses dissatisfaction among employees who are unable to take advantage of it and deem it to be unfair.

Aside from their legality confirmed by the courts, we deem accommodation practices in respect of religious holidays to be legitimate. Moreover, we believe that they should be readily granted but without unfairness toward other employees.

General conclusions

Based on this overview of harmonization practices, we can draw the conclusions indicated below.

a) We do not have at our disposal precise, reliable statistics on the number and source of harmonization requests, in particular by ethnic group, religion, age, and sex. Some raw data are available, but since they do not relate to a denominator, i.e. basic number or population, number of service deliveries, number of medical procedures, and so on, they do not allow us to draw conclusions concerning the frequency of requests. That being the case and, as we emphasized earlier, there is no indication, in light of the testimony of interveners working in the field, that such requests might proliferate.

b) Our deliberations allow us to conclude that managers and interveners in the field fully deserve the general public's trust. While problems do persist, they have acquired solid expertise in the realm of harmonization practices.

c) We have noted that the approaches elaborated by institutions closely resemble each other, whether from the standpoint of the educational support offered by teachers or the personalization of care by health-care personnel.

d) In different milieus, there exists a fear of over-regulation "from above." Interveners need leeway that allows them to take into account the uniqueness of cases and contexts.

e) However, the interveners hope that the principles, general framework and rules governing coexistence (the "guidelines") will be clarified. As the Conseil interculturel de Montréal noted in its brief, "a text is sorely lacking in Québec that would serve as a reference to regulate relations and the place of religion in our institutions." The same is true of the interculturalism model that Quebecers appear to widely support but in the absence of an official text that explicitly defines it as a model for managing intercultural relations.

f) To summarize, we can confirm that we are facing three key tasks: formulate the key principles applicable to all workplaces; adapt these principles to the context and mission of institutions; and take the steps necessary to disseminate the experience acquired in institutions among all of the individuals concerned.

QUÉBEC SOCIETY IS NOW FACING THREE MAIN TASKS:
a) formulate the major principles applicable to all workplaces;
b) adapt these principles to the context and mission of institutions;
c) disseminate the experience acquired in institutions among all of the individuals concerned.

SECTION IV
SOCIETAL NORMS OFFER A FRAME OF REFERENCE

One of the key sources of anxiety mentioned during our consultations concerns the putative absence of guidelines to handle adjustment requests. Aside from the legal guidelines indicated in section III, Québec society has nonetheless adopted over the years an array of norms and guidelines that underpin its "common public culture." It is thus wrong to believe that there are no guidelines governing harmonization practices. However, this does not mean, either, that some facets of the guidelines would not benefit from clarification. Our approach comprises two stages. First, we will examine the existing guidelines, then, in keeping with the wish expressed by many interveners, we will seek to clarify the integration model and the system of secularism that seem most appropriate to Québec society.

A. Existing guidelines

1. Québec's liberal democracy

Let us begin by noting that Québec's political system is both **democratic** and **liberal**. It is democratic insofar as political power ultimately resides with the people, who delegates such power to representatives who exercise it in the people's name for a given period of time. Our democracy is thus representative, but it is also liberal in that individual rights and freedoms are deemed to be fundamental and are thus confirmed and protected by the State.

Québec is a liberal democracy. The government of the majority undertakes to respect the freedoms and basic rights of all citizens.

We often lose sight of the extent to which the legitimacy of our political system centres on the complementarity of these two facets, i.e. its democratic and liberal nature. This system is democratic since, as we noted earlier, the people are sovereign. All citizens, who are deemed to be equal, are the ultimate holders of political power. All of them may in principle

participate in political debate and take advantage of the right to vote. Since individuals often disagree about political questions and vote for different parties, a democracy is quite rightly subject to the rule of the majority.

The Québec Charter spells out a series of rights and freedoms from which all citizens may benefit, including the right to life and equality, and freedom of conscience, expression and association.

Québec's democratic system is also liberal since it protects rights and freedoms from possible abuse by the majority. For example, no one would want a government, even a properly elected one, to flout the basic rights of a group of citizens in the name of the majority's interests. It is precisely to offer additional protection of the rights and freedoms guaranteed to all individuals that such rights and freedoms are enshrined in a charter, which imposes limits on the government's action and manages relations between citizens.

We cannot examine in detail here the Québec and Canadian charters. Let us simply note that both charters spell out a series of rights and freedoms from which all citizens may benefit, e.g. the right to life and equality, freedom of conscience and religion, freedom of expression and association, political rights and legal guarantees. They also prohibit several forms of discrimination, including discrimination based on sex, ethnic origin and religion. Everyone must be able to exercise these rights and freedoms since all human beings are deemed to be equal in dignity. The Preamble of the Québec Charter states that "all human beings are equal in worth and dignity, and are entitled to equal protection of the law."

It is also important to point out that the exercising of these rights and freedoms is not absolute and must respect the rights of others and the collective interest. When two rights come into conflict, the courts do not seek to determine which of the two is superior to the other, i.e. to organize rights along hierarchical lines, but endeavour to hand down a decision in which the level of

infringement of the two rights is "minimal." This approach stems from the principle whereby basic rights are equally important. They form, to some extent, the links in the same chain. For this reason, the 1948 *Universal Declaration of Human Rights* does not establish a hierarchy of basic rights.

2. French as the common public language

In Québec, French is the official language. The *Charter of the French language* (Bill 101), adopted in 1977, stipulates that French is "the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business." Québec's language policy therefore seeks to promote French as the common public language. However, Bill 101 does not cover the language that Quebecers use in the home or in their private lives. In keeping with the liberal nature of Québec society, the government has undertaken to promote French in a spirit of respect toward the linguistic minorities that live in Québec.

Through the provisions in Chapter VIII of the *Charter of the French language* covering the language of instruction, Québec French-language schools attended by students of different origins have become a hub for integration and learning to live together. The French language is the main medium that allows Quebecers of all origins to interact, get to know each other, cooperate and participate in the development of Québec society.

FRENCH, THE COMMON PUBLIC LANGUAGE
French is the official language of Québec. Québec's language policy seeks to make French the normal, usual language of work, instruction, communication, commerce and business, in a spirit of respect for the linguistic minorities that live in its territory.

3. Québec's integration policy

It is widely acknowledged that the key directions in Québec's integration policy were defined in the *Policy Statement on Immigration and Integration* adopted in 1990. The policy statement stipulated the components of a "moral contract" that established, in a spirit of reciprocity, the respective commitments of the host society and newcomers. In particular, the policy statement stipulates that Québec is:

- a society in which French is the common language of public life;
- a democratic society that expects and encourages everyone to participate and contribute;
- pluralistic and open to outside contributions, within the limitations imposed by respect for basic democratic values and the need for intercommunity exchange.

It notes that immigration is essential to the development of Québec society. As for cultural diversity, it is perceived as an asset inasmuch as its expression is guided by the charters of human rights and freedoms and it is achieved in a spirit of interaction rather than a spirit of division. Immigrants are encouraged to learn French and contribute to Québec society's cultural, economic and political vitality. In return, the government undertakes to facilitate their integration.

QUÉBEC'S INTEGRATION POLICY
Immigrants are encouraged to learn French and participate in Québec's cultural, economic and political life. In return, the government undertakes to facilitate their integration.

Successive governments may interpret differently any of these policy directions. However, we have noted that the principles of the civil pact formulated in the policy statement have not been fundamentally altered since 1990.

The factors that we have just examined, i.e. the liberal democratic system, the charters of human rights and freedoms, the *Charter of the French language*, and the *Policy Statement on Immigration and Integration*, have made it possible to establish in Québec in recent decades a relatively harmonious group climate. However, debate on reasonable accommodation has revealed that certain aspects of the "common public culture" would benefit from broader dissemination or clarification.

B. Integration and interculturalism: a model to be clarified

Often mentioned in academic papers, **interculturalism as an integration policy has never been fully, officially defined by the Québec government** although its key components were formulated long ago. This shortcoming should be overcome, all the more so as the Canadian multiculturalism model does not appear to be well suited to conditions in Québec, for four reasons: *a*) anxiety over language is not an important factor in English Canada; *b*) minority insecurity is not found there; *c*) there is no longer a majority ethnic group in Canada (citizens of British origin account for 34% of the population, while citizens of French-Canadian origin make up a strong majority of the population in Québec, i.e. roughly 77%); *d*) it follows that in English Canada, there is less concern for the preservation of a founding cultural tradition than for national cohesion.

Generally speaking, it is in the interests of any community to maintain a minimum of cohesion. It is through such cohesion that a community can adopt common orientations, ensure participation by citizens in public debate, create the feeling of solidarity required for an egalitarian society to function smoothly, mobilize the population in the event of a crisis, and take advantage of the enrichment that stems from ethnocultural diversity. For a small nation such as Québec, constantly concerned about its future as a cultural minority, integration also represents a condition for its development, and perhaps, for its survival.

That is why the integrative dimension is a key component of Québec interculturalism. According to the descriptions provided in scientific documentation, interculturalism seeks to reconcile ethnocultural diversity with the continuity of the French-speaking core and the preservation of the social link. It thus affords security to Quebecers of French-Canadian origin and to ethnocultural minorities and protects the rights of all in keeping with the liberal tradition. By instituting French as the common public language, it establishes a framework in society for communication and exchanges. It has the virtue of being flexible and receptive to negotiation, adaptation and innovation.

The 11 proposals below allow us to define Québec interculturalism even more precisely.

1. Québec as a nation, as recognized by all Québec political parties and the federal government, is the operational framework for interculturalism.

2. In a spirit of reciprocity, interculturalism strongly emphasizes interaction, in particular intercommunity action, with a view to overcoming stereotypes and defusing fear or rejection of the Other, taking advantage of the enrichment that stems from diversity, and benefiting from social cohesion.

3. Members of the majority ethnocultural group, i.e. Quebecers of French-Canadian origin, like the members of ethnocultural minorities, accept that their culture will be transformed sooner or later through interaction.

4. Cultural, and, in particular, religious differences need not be confined to the private domain. The following logic underpins this choice: it is healthier to display our differences and get to know those of the Other than to deny or marginalize them.

5. The principle of multiple identities is recognized, as is the right to maintain an affiliation with one's ethnic group.

6. For those citizens who so wish, it is desirable for initial affiliations to survive, since ethnic groups of origin often act as mediators between their members and society as a whole. A general phenomenon arises in this regard: almost without exception, each citizen integrates into society through a milieu or an institution that serves as a link, e.g. the family, a profession, a community group, a church, an association, and so on.

7. Multilingualism is encouraged at the same time as French as the common public language. The debate that opposes the language of identity and the common language (as a simple communication tool) is hardly promising. What is important, first and foremost, is the broadest possible dissemination of French, in whatever form.

8. To facilitate the integration of immigrants and their children, it is useful to provide them with the means to preserve their mother tongue, at least at the outset. This helps them to mitigate the shock of immigration by affording them a cultural anchor. It is also a means of preserving the enrichment that stems from cultural diversity.

9. Constant interaction between citizens of different origins leads to the development of a new identity and a new culture. This is what has been happening in Québec in recent decades without altering the cultural position of the majority group or infringing on the culture of minority groups.

10. Under a recent, highly promising orientation from the standpoint of pluralism, the groups present in Québec define themselves with reference to common, often universal, values stemming from their history rather than their ethnic traits. Québec is thus part of an international trend whereby societies choose to integrate diversity in light of shared values.

11. The civic and legal dimensions (and everything that concerns, in particular, non-discrimination) must be regarded as fundamental in interculturalism.

To summarize, we could say that Québec interculturalism *a*) institutes French as the common language of intercultural relations; *b*) cultivates a pluralistic orientation that is highly sensitive to the protection of rights; *c*) preserves the creative tension between diversity and the continuity of the French-speaking core and the social link; *d*) places special emphasis on integration; and *e*) advocates interaction.

QUÉBEC INTERCULTURALISM:
a) institutes French as the common language of intercultural relations;
b) cultivates a pluralistic orientation that is highly sensitive to the protection of rights;
c) preserves the creative tension between diversity and the continuity of the French-speaking core and the social link;
d) places special emphasis on integration; and
e) advocates interaction.

As we noted earlier, we believe it would be useful for the Québec government to adopt an official text such as a statute, a policy statement

or a declaration that broadly defines interculturalism. This text would thus constitute a key component of the social blueprint and would serve as a frame of reference for the elaboration of policies and programs. In addition to enhancing the coherence of the government's approach, it would offer all community interveners an official reference point.

C. A secular regime for Québec

During the public consultation held in the fall of 2007, Quebecers massively espoused the concept of secularism, one of the most frequently mentioned themes, but sometimes with highly different meanings. We will first seek to clarify the meaning of this concept then will describe the type of secularism that we believe is best suited to Québec.

An initial ambiguity: the distinction between what is public and private

The argument that "religion must remain in the private sphere" was often cited by the proponents of secularism. While at first sight it seems clear, this statement is not quite as clear as we may think. Indeed, "public" can be understood in at least two separate ways. According to the first meaning, what is public relates to the State and its common institutions, i.e. "public institutions." According to the second meaning, what is public is open or accessible to everyone, i.e. "places of public use," for example, a "garden open to the public."

The first meaning concurs with the secular principle of the neutrality of the State with respect to religion. According to this first meaning, it is therefore accurate to confirm that religion must be "private." However, it does not go without saying that secularism demands of religion that it be absent from public space in the broad sense. In point of fact, religions already occupy this space and, pursuant to the charters, religious groups and the faithful have the freedom to publicly display their beliefs.

Confusion arises when these two ways of understanding the distinction between what is public and private intersect. This is true, for example, when we ask whether students and teachers may display their religious affiliation in the school. If a public institution must be neutral, are the individuals who frequent it subject to this obligation of neutrality?

A second ambiguity: State neutrality

The notion of neutrality is also more complex that it may seem. Thus, it is widely acknowledged that the secular State must be neutral in respect of all religions. To this we must add that the State must not take sides as regards religion and non-religion. It must maintain its position of neutrality when faced with all deep-seated moral convictions, whether they are religious or secular.

STATE NEUTRALITY
Under the principle of neutrality, the State may not espouse all of the worldviews and deep-seated convictions of all citizens, which are numerous and sometimes hard to reconcile. However, it can promote the values that stem from them and underpin democratic life.

However, the secular, democratic State is based on a political moral code and on certain principles that are not negotiable. This is true of democracy, human rights and the equality of all citizens. When these principles come into play, the State may not remain neutral. Ideally, all citizens must share these same principles and political moral code, although their deep-seated convictions may differ.

For example, everyone may agree on the idea that we must defend the right to life, although individuals may do so in light of markedly different justifications: a Christian may confirm that human beings are created in God's image, while a secular philosopher might claim that a human being as a

rational subject possesses a dignity that no one must infringe. Other deep-seated reasons might similarly be cited. The secular State defends certain principles but it does so without taking sides in respect of the deep-seated reasons that citizens may cite to justify their adherence.

Open secularism

Liberal democracies, including Québec, all adhere to the principle of secularism, which can nonetheless be embodied in different systems. Which system is best suited to Québec society, bearing in mind its history and the very foundations of secularism?

To answer this question, it is useful to distinguish the four principles that underpin secularism. Two of them define its final purpose:

1. the moral equality of persons; and
2. freedom of conscience and religion.

The other two principles are expressed in institutional structures that make it possible to achieve these purposes:

3. the separation of Church and State; and
4. the neutrality of the State with respect to religions and deep-seated secular convictions.

Any secular system achieves some form of balance between these four principles. Certain systems impose fairly strict limits on freedom of religious expression. France, which has just adopted restrictive legislation governing the wearing of religious signs in the schools, is deemed to have this type of system, although in reality it is much more flexible that its reputation suggests. This type of system defines State neutrality very broadly, which leads to the exclusion of certain forms of religious expression in the public sphere.

We do not think that this is the best type of system. Since freedom of conscience and religion is one of the purposes of secularism (second principle), the neutrality of the State (fourth principle) should be designed so as to foster, not hinder, its expression. If such was the case in France, it is perhaps because a certain conception of the neutrality of the State, sanctioned by a national tradition, was raised to the level of an ultimate purpose. Recent debate in France, where secularism has often been presented as an essential component of the Republic's identity, illustrates this shift. Certain French republicans believe that the mission of secular schools must be to emancipate students from religion. Others believe that cultural and religious identities only impede social integration, which should be based on citizenship that excludes any particularism.

OPEN SECULARISM

Like any form of secularism, open secularism has four components:
1) the moral equality of persons;
2) freedom of conscience and religion
3) the reciprocal autonomy of Church and State; and
4) the neutrality of the State.
The first two define its final purpose and the other two are expressed in institutional structures.

There are three reasons why we believe that this type of restrictive secularism is not appropriate for Québec: *a*) it does not truly link institutional structures to the purposes of secularism; *b*) the attribution to the school of an emancipatory mission directed against religion is not compatible with the principle of State neutrality in respect of religion and non-religion; *c*) the integration process in a diversified society is achieved through exchanges between citizens, who thus learn to get to know each other (that is the philosophy of Québec interculturalism), not by relegating identities to the background.

Open secularism, which we are advocating, seeks to develop the final purposes of secularism (first and second principles) by defining institutional structures (third and fourth principles) in light of this objective. This is the path that Québec has followed historically, as witnessed by the Proulx report, which also promotes open secularism.[4] Our position, once again, is in keeping with the path that Québec has followed.

The wearing by government employees of religious signs

Must a regime based on open secularism allow government employees to wear religious signs? Does the neutrality of public institutions demand the prohibition of such signs? To answer these questions, we must consider the type of neutrality that it is to be expected of the public service. We naturally hope that public servants will perform their duties loyally and impartially. Would they relinquish these qualities simply because they wear a religious sign? We do not think so.

THE WEARING OF RELIGIOUS SIGNS

We do not believe that a general prohibition concerning the wearing by all government employees of religious signs is warranted, except in a certain number of functions that imply a duty of self-restraint, e.g. the President of the National Assembly, judges and police officers.

By prohibiting the wearing in the public service of any religious sign, we would prevent the faithful from certain religions from engaging in careers in the public service, which would contravene freedom of conscience and religion (second principle) and would largely complicate the task of building a public service that reflects Québec's population, which is becoming increasingly diversified. This would also infringe the equality of citizens (first principle).

4 Groupe de travail sur la place de la religion à l'école, *Laïcité et religions: perspective nouvelle pour l'école québécoise*. Rapport du Groupe de travail sur la place de la religion à l'école. Québec: ministère de l'Éducation, 1999, 296 pages.

We do not believe that a general prohibition concerning the wearing by all government employees of religious signs is warranted. However, we acknowledge that certain duties may imply a duty of self-restraint. In the brief that it submitted to the Commission, the Bloc Québécois noted that certain functions "by their very nature embody the State and its essential neutrality." This is true, in particular, of judges, Crown prosecutors, police officers and the President of the National Assembly. Individuals who occupy these positions could be required to relinquish their right to display their religious affiliation in order to preserve the appearance of impartiality that their function requires.

Harmonization practices for religious reasons

In the course of our consultations, several interveners requested the adoption of legislation prohibiting any religious accommodation. This radical proposal cannot be adopted under a system based on open secularism, especially as it would require the amendment of the Québec *Charter of Human Rights and Freedoms*, which protects freedom of religion. Such an amendment would put Québec in an awkward position from the standpoint of the *Universal Declaration of Human Rights* and the numerous national charters based on it.

Furthermore, this proposal is incompatible with the principle of State neutrality. Since freedom of religion cannot be dissociated from freedom of conscience, the prohibition of religious accommodation would create inextricable legal problems. For example, let us consider the following case: a penitentiary offers a meat-based diet. Two inmates request a vegetarian meal, one because he is Hindu and the other (an atheist) because he believes it is immoral to kill animals for food. Should the first request be rejected under the pretence that it is motivated by religion and the second one accepted because it is not of a religious nature? How can we refuse requests related to freedom of religion without at the same time rejecting freedom of conscience? As we saw earlier, the neutrality of the State assumes that it does not take sides in favour of religion or non-religion.

According to another argument, the accommodation granted to the disabled should not be confused with religious accommodation because the disabled do not choose their disability, while a believer may decide to relinquish such and such a practice. This distinction, while it seems convincing, minimizes the fact that certain "religious choices" are actually experienced as non-optional. To infringe these choices of conscience would be tantamount to interfering with the individual's moral integrity and would entail relegating choices stemming from deep-seated convictions to the level of simple desires or whims. To no longer make a distinction between whims and deep-seated convictions, whether of a religious or a secular nature, would be to relinquish one of the most valuable established privileges of our civilization.

Religious heritage

Catholicism has left an indelible mark on Québec's history. Traces of it are all around us. Under the principle of the neutrality of the State, religious displays linked to the functioning of public institutions should be abandoned. Thus, we do not believe that the crucifix in the National Assembly and the prayers that precede municipal council meetings have their place in a secular State. In both instances, public institutions are associated with a single religious affiliation rather than addressing themselves to all citizens.

That being the case, it would be absurd to want to extend this rule of neutrality to all historic signs that no longer fulfil an obvious religious function, e.g. the cross on Mont-Royal or the crosses on old buildings converted to secular uses. The same is true of Québec toponymy, which is largely inspired by the calendar of the saints. Quebecers' common sense will surely prevail in this respect.

SECTION V
A PROPOSED POLICY RESPECTING HARMONIZATION PRACTICES

We have seen in the preceding sections that legal parameters and norms governing life together already guide harmonization practices. We have also seen that these practices stem from societal choices that Québec has made in recent decades, more specifically through the adoption of an intercultural integration model and a system centred on open secularism. Harmonization practices are in keeping with this general approach that seeks to promote purposes and collective ideals such as equality, cooperation and social cohesion, the creation of new forms of solidarity and the development of a feeling of belonging to an inclusive Québec identity.

This section is intended to: *a*) introduce the concept of concerted adjustment by defending the dejudicialization and accountability of milieus; *b*) review and clarify the guidelines pertaining to harmonization practices; *c*) clarify two controversial questions (the ranking in hierarchical order of rights and the stance adopted by the courts in respect of religion); and *d*) illustrate the application of our policy by means of a number of cases that have been widely discussed in recent months.

A. Reasonable accommodation and concerted adjustment

The field of harmonization practices is complex and there is more than one way to define and delineate it. We have decided to give priority to the framework for handling requests, which leads us to distinguish between the **legal route** and the **citizen route**. Under the legal route, requests must conform to formal codified procedures that the parties bring against each other and that ultimately determine a winner and a loser. Indeed, the courts

impose decisions most of the time. The legal route is that of **reasonable accommodation**. Requests follow a much different route under the second path, which is less formal and relies on negotiation and the search for a compromise. Its objective is to find a solution that satisfies both parties and it corresponds to **concerted adjustment**.

Generally speaking, we strongly favour recourse to the citizen route and concerted adjustment, for several reasons: *a*) it is good for citizens to learn to manage their differences and disagreements; *b*) this path avoids congesting the courts; *c*) the values underlying the citizen route (exchanges, negotiation, reciprocity, and so on) are the same ones that underpin interculturalism. In quantitative terms, we have noted, moreover, that most requests follow the citizen route and only a small number rely on the courts.

Concerted adjustment follows the citizen route. It relies on negotiation and the search for compromises.

In some situations, the legal route may be the only solution, but it should be avoided as much as possible. To this end, it is in the interveners' interests to engage in negotiations that simultaneously emphasize a **contextual**, **deliberative** and **reflexive** approach. The contextual dimension takes into account the unique nature of individual situations. Through the deliberative dimension, the interveners engage in dialogue and the reflexive dimension allows them to engage in self-criticism and mend their ways when necessary.

The main strength of this approach is that it can be adapted to different situations and emphasizes the interlocutors' accountability in a spirit of mutual respect and dialogue. Moreover, it responds to the request from interveners and managers who want certain clarifications in respect of the general guidelines but wish to preserve leeway that allows them to take into account the specific nature of cases, contexts and environments.

B. Three types of guidelines

As we saw in section III, the duty of accommodation stems from the application of the charters of human rights and freedoms. However, this obligation, which affects public institutions and the private sector, is not without limits. Three types of guidelines make it possible to manage accommodation or adjustment requests, i.e. undue hardship, ethical reference points and incentives.

Undue hardship

To be admissible, it is not sufficient for an accommodation request to implicate a discriminatory ground recognized in the charters. In addition, it must not lead to what jurists call an "undue hardship," i.e. a disproportionate cost, an impediment to the enterprise's operation or an infringement of other people's rights. Undue hardship thus defines a series of **restrictive** guidelines, which can lead to the rejection of a request.

THREE TYPES OF GUIDELINES

Three types of guidelines make it possible to manage accommodation or adjustment requests, i.e. restrictive guidelines (undue hardship), ethical reference points (the attitudes sought in negotiations), and incentives (society's purposes).

Some public agencies have drawn inspiration from the definition of undue hardship stemming from jurisprudence to formulate evaluation criteria that take into account their specific traits. For example, the Centre de santé et de services sociaux de Laval formulated in its brief the four reference points indicated below to assess accommodation or adjustment requests:

1. A request for the personalization of care must not run counter to clinical judgment, best practices and the professional code of ethics and must be evaluated in light of clinical urgency.

2. A request for personalization must not run counter to safety rules, e.g. the prevention of infection, risk management, and so on.

3. A request for personalization must not engender undue costs or costs that exceed organizational limits from a human, physical and financial standpoint.

4. A request for personalization must not be harmful to the rights and freedoms of other users and interveners.

Similarly, interveners and managers in the educational milieu can refer to three criteria proposed by Marie Mc Andrew, a specialist in intercultural questions in the schools. According to these criteria, an accommodation or adjustment request must not:

1. violate the student's other rights or the rights of other students;

2. run counter to the rigorously restrictive requirements of the *Education Act*, program organization or other statutes;

3. impose undue hardship on the school with regard to its operations and budget.

Accommodation or adjustment requests are thus limited by: *a*) the institution's aims (provide care, educate, make a profit, and so on); *b*) the financial cost and functional constraints; *c*) other people's rights.

Moreover, as we saw in section IV, rights and freedoms themselves may be limited in the name of "regard for democratic values, public order and the general well-being of the citizens of Québec" (Québec *Charter of Human Rights and Freedoms*). Several statutes seek to promote or protect certain common public values, e.g. the *Education Act*, the *Act respecting health services and social services*, and the *Act respecting occupational health and safety*. Obviously, harmonization practices may not contravene these statutes and must remain faithful to Québec's common public values.

Ethical reference points

The negotiation process linked to accommodation or adjustment requests brings into play a second series of guidelines that fulfil an ethical role. While certain attitudes and behaviour foster the emergence of mutually satisfactory solutions, others may lead to withdrawal, inflexibility and, ultimately, to court action. Among the ethical reference points that should guide any negotiation, let us mention openness to the Other, reciprocity, mutual respect, the ability to listen, good faith, the ability to reach compromises, and a willingness to rely on discussion to resolve stalemates. The institution of a **culture of compromise** largely centres on all of these factors that foster the coordination of action and the peaceful, concerted resolution of disputes.

Incentives

Society's values and their intended aims also serve as incentives. Unlike undue hardship, such values are not sufficient to warrant rejecting a request but they may tip the scales in certain difficult cases. Thus, a request whose reasonable nature is challenged might be rejected if it favours ghettoization or marginalization, which runs counter to the objectives pursued by society. Conversely, **a request directed at integration would have a greater chance of being accepted.** This might be true, for example, of a request pertaining to the wearing of religious signs in the school: acquiescing to this request would allow Sikh, Muslim or Jewish students to attend French-language public schools instead of a private English-language or religious school. Similarly, certain adjustments, such as those made by the CLSC de Parc-Extension, would allow isolated, vulnerable immigrants to benefit from the health and social services system. These accommodation or adjustment measures that foster integration are all the more desirable as they contribute to the attainment of societal objectives such as the learning of French and social cohesion.

Incentives can also play a role in the realm of labour relations. In light of the scarcity and mobility of workers, it is in the interests of business managers to show concern for the well-being of their employees. Accommodation and adjustments are thus part of new diversity management strategies aimed at offering an inclusive, attractive workplace.

C. Two controversial questions

Two questions pertaining to harmonization practices have been keenly debated in recent months, concerning *a*) the hierarchical ordering of rights and *b*) the approach adopted by the courts to evaluate the applicants' religious beliefs. We will examine them briefly and encourage readers to consult the full report for a more detailed discussion of these complex questions.

Freedom of religion and gender equality

Many Quebecers have expressed the fear that freedom of religion, which is protected by the charters, may be cited to justify practices that run counter to the principle of gender equality. This fear was often reinforced by mistrust of the courts, which were suspected of promoting an overly lax or permissive interpretation of freedom of conscience, thus supporting practices that should not be tolerated in a liberal democracy.

Two proposals were put forward to clarify this question. The first proposal consisted in organizing along hierarchical lines the rights protected by the charters and in specifying that the principle of gender equality must take precedence over freedom of religion. This suggestion has the drawback of contravening the philosophy that has, until now, guided the elaboration of charters of human rights and freedoms in the West, in particular the 1948 *Universal Declaration of Human Rights*. As we noted in section IV, the courts are of the opinion that basic rights must not be organized along hierarchical lines because they are all equally important.

The second solution consisted not in organizing rights along hierarchical lines but in proposing the addition of an interpretive clause in the Québec Charter. The Québec government adopted this suggestion by proposing in Bill 63 the insertion of the following section: "The rights and freedoms enunciated in this Charter are equally guaranteed to women and men."

Our commission supports this initiative inasmuch as it does not appear to establish a hierarchical ranking of rights. Moreover, it must be noted that the Québec Charter already grants full recognition to women and men of the rights and freedoms enunciated in it and prohibits discrimination based on sex (section 10). Similarly, the courts have already elaborated criteria that allow them to reject accommodation requests that infringe gender equality. That being the case, the proposed amendment may, above all, prove useful if it encourages legislators to adopt the measures necessary to achieve **de facto equality** between men and women.

The subjective conception of religion

Until recently, the courts required individuals who requested accommodation for religious reasons to demonstrate the objectivity of their beliefs and the precepts or obligations that they invoked to support their request. Recent jurisprudence has abandoned this approach, which has been replaced by an approach that is based instead on the criterion of the sincerity of belief. Under this approach, authorized religious experts or representatives do not need to confirm the existence of the precept invoked by the applicant. What is important, in the court's view, is that the applicant sincerely believes that he is bound to conform to the religious precept invoked.

This new approach, based on a **subjective conception of religion**, has aroused criticism, linked in particular to the fear of an exponential increase in the number of requests and the absence of criteria to evaluate them. However, the courts have not adopted this approach for no reason. The approach has

several advantages: *a*) the court does not have to convert itself into a religious tribunal and arbitrate theological disagreements between different traditions or schools; *b*) the subjective conception avoids the risk that would stem from giving credence to the majority opinion in a religious community at the expense of minority opinions, which would thus be marginalized; *c*) the subjective conception reflects changes under way in the relationship to religion, which often leads nowadays to an individualization of belief (a growing number of believers shape their vision of the world based on different religious, spiritual and secular traditions); and *d*) the subjective conception circumvents the virtually insolvable problem of trying to define what is or what is not a religion.

That being the case, it is true that this new approach raises several questions. What is important is that it may be invoked in an opportunistic or fraudulent manner to justify an accommodation request. This possibility is all the greater since the sincerity test on which the courts rely must not be too exacting. Moreover, the courts must take into account the changes that can occur over time in a person's beliefs. However, we can counter these arguments by stating that the courts are accustomed to assessing the sincerity and credibility of testimony, regardless of the nature of the case being heard.

The situation is somewhat different for front-line managers, who have neither the means nor the authority to probe the sincerity of accommodation applicants. For these reasons, it is natural for them to rely on a more objective conception of religious belief, unlike the courts. Furthermore, as we have seen, it is in their interests to avoid the legal route by applying the contextual, deliberative and reflexive approach, which fosters the attainment of negotiated compromises.

D. Some illustrations

We will conclude this section by going back over several accommodation or adjustment cases that received widespread media coverage or that illustrate the application of the guidelines that we have presented. The exercise will necessarily be limited, for lack of space, but also for another reason. By definition, any accommodation or adjustment request arises in a specific context, which must be taken into account in the decision-making process. Each request must thus be evaluated on a case-by-case basis. However, our overview is nonetheless useful as a simulation to indicate a number of general guidelines. The examples selected will be confined to the realm of public institutions.

Adjustment requests that infringe gender equality would have little chance of being granted, since such equality is a basic value in our society.

1. Adjustment requests that infringe gender equality would have little chance of being granted, since such equality is a basic value in our society. In the health care sector and in all other public services, this value leads to the rejection, in principle, of all requests that result in a woman's being accorded inferior status to a man (some examples are police interrogations or driving tests). That being the case, we are aware of situations in which exceptions must be made.[5]

2. Coeducation is an important value in Québec society but it is not as fundamental as gender equality. For this reason, the list of admissible exceptions in this respect can be more extensive. As a general guideline, coeducation should, however, prevail everywhere possible, for example when students are divided into classes, in swimming classes, and so on.

5. For example, a girl who has just been raped would naturally rather confide in a female rather than a male police officer. In home-care centres for the elderly, female attendants attend to the personal hygiene of women. A woman requests for religious reasons that a female driving examiner conduct her driving test as she fears reprisals from her spouse if a male examiner is assigned.

3. As for prayer rooms in public establishments, our position reflects the opinion that the Commission des droits de la personne et des droits de la jeunesse adopted on February 3, 2006. The opinion states that educational establishments are not obliged to set up permanent prayer rooms. However, it is entirely in keeping with the spirit of adjustments to authorize for the purpose of prayer the use of rooms that are temporarily unoccupied. Certain exceptions may be made in the case of penitentiaries, hospitals or airports since the individuals who must remain there are not free to visit a church if they so desire.

4. Still in keeping with the notion of the separation of Church and State, we believe that the crucifix must be removed from the wall of the National Assembly, which, indeed, is the very embodiment of the constitutional state (a reasonable alternative would be to display it in a room devoted to the history of Parliament). For the same reason, the saying of prayers at municipal council meetings should be abandoned in the many municipalities where this ritual is still practised. On the other hand, the installation of an eruv does not infringe the neutrality of the State and thus may be authorized provided that it does not inconvenience other people.

In keeping with the notion of the separation of Church and State, we believe that the crucifix must be removed from the wall of the National Assembly.

5. The same reasoning leads to respect for dietary prohibitions and to allow in class the wearing of an Islamic headscarf, a kippah or a turban. The same is true of the wearing of the headscarf in sports competitions if it does not compromise the individual's safety. It should be noted that all of these authorizations promote integration into our society.

6. Applicants who are intransigent, reject negotiation and go against the rule of reciprocity will seriously compromise their approach, e.g. this would be true of a student who refused any compromise concerning dress to participate in a swimming class.

7. Requests must seek to protect or restore a right. Thus, we believe that non-Christian religious holidays are legitimate since they rectify an inequality. Conversely, requests must not infringe other people's rights. This forbids the exclusion of certain scientific works, for example, devoted to evolution, from a classroom library, the request by an Orthodox Jew who refuses to stand in line in a CLSC on the Sabbath, or a parent's opposition to a blood transfusion necessary for his child's survival.

8. In keeping with the aim of the education system, students must not be exempted from compulsory courses. However, a student may be authorized to abandon a music course for another equivalent course in the case of an optional activity.

9. The case of the frosted windows and the Muslims at the sugarhouse stemmed from informal agreements. The management of the YMCA could have refused to install the frosted windows. As for the owners of the sugarhouse, they were entirely free to accommodate their Muslim customers, which was a business decision.

10. Let us conclude with the most difficult case, that of the kirpan. Most Quebecers expected the court to decide in favour of the school board rather than the claimant. There is remarkably little violence in Québec society and it was deeply disturbed by the massacre in 1984 in the National Assembly and at the École Polytechnique in 1989. The massacre in Columbine, Colorado in 1999 was still fresh in everyone's mind.

The September 11, 2001 attacks instilled in the public a climate of fear. Under the circumstances, the security argument was of prime importance. The vast majority of Quebecers believed that the court should have taken advantage of this opportunity to send a clear message in favour of non-violence. If the kirpan is only a symbolic object, why demand that it be made of metal and 20 cm long?

The kirpan affair in the school clearly demonstrates that it is preferable to focus on the citizen route instead of the legal route.

The judges perceived the matter otherwise and for reasons that are no less convincing. Sikhs indeed regard the kirpan as a symbolic object: it has not led to any violent incident in a school at any time in Canada's history. The court's decision stipulated that the weapon must be carried in such a way that it in no way poses a threat, i.e. it must be sealed, worn under clothing and periodically inspected by the school. Furthermore, other equally dangerous objects are allowed in the schools, e.g. scissors, compasses, skates, baseball bats, and so on. The agreement that the court ordered was practically the same as the one that the school had initially concluded with the student's family. Since education in pluralism is part of the school's mission, the religious obligation to wear the kirpan should have been better explained to those who were opposed to it.

> In the abstract, none of the principles in play appears to have prevailed over the others. It is the context and dialogue that become decisive. In schools in the Commission scolaire de Montréal, two similar requests have been made since the Supreme Court handed down its judgment and they were rejected without further legal proceedings. In both cases, it was negotiation with the family that made the difference. In 1998, a similar, little publicized incident occurred at the Polyvalent Lucien-Pagé. The affair ended through negotiation and the student accepted a compromise (the wearing of a small chain around his neck to which was attached a small symbolic kirpan).

In all of the cases, we can see how preferable it is to focus on the citizen route instead of the legal route, insofar as the latter fosters the awareness among individuals of their responsibilities and seeks to avoid the emergence of conflict and antagonism.

SECTION VI
RESPONSES TO CURRENT OBJECTIONS

Several of the arguments invoked against harmonization practices are based on partial information or erroneous perceptions.

In section II B, we sought to re-establish the facts surrounding cases that received extensive media coverage and fostered a widespread negative perception of accommodation. We will now undertake an analogous exercise by responding to criticisms and objections that we frequently heard during our public and private consultations and that we read in letters to newspaper editors and the e-mails that we analysed.[1] We will focus, in particular, on arguments that strike us as being based on partial information or erroneous perceptions (we have examined in other sections substantive questions such as secularism). As it is impossible for us to review all of the objections formulated with respect to accommodation, we will examine the main ones, i.e. the most important and the most frequently expressed ones. To achieve greater clarity, we have grouped the arguments under six headings.

1. With all of the adjustments, Québec is going against what is being done elsewhere.

a) Our society has gone much further than what key international legal conventions require.

Québec seeks instead to follow key conventions and the leading Western legal texts. The authors of the Québec Charter were largely inspired by the *International Bill of Human Rights*, which includes the *Universal Declaration of Human Rights* and the two international pacts. Québec and Canadian jurisprudence are also occasionally based on European Court of Human Rights rulings.

1. Appendix B of the full report contains a more detailed version of this examination.

b) Québec should adopt the French model of radical secularism (republican) and thus achieve a genuine separation of the State and religion.

This proposal betrays an erroneous perception of the French secular system, which, in several respects, displays greater openness than Québec does with respect to religions in public space. Private religious education in France obtains more generous funding than it does in Québec (over 75%, against 60% here). Churches receive substantial financial support for their social works. The State funds a substantial part of the maintenance of cathedrals and parish churches and chaplain services in secondary schools, hospitals and the army. A mass at Notre-Dame cathedral is the only official ceremony held for the funerals of French presidents. France observes more Catholic holidays than Québec does.

The wearing of ostentatious signs denoting religious affiliation was recently prohibited in State schools but in the name of public order rather than secularism. Furthermore, the headscarf has more or less been replaced in the schools by the bandana, a compromise between the hidjab and a simple Western scarf. Harmonization practices have expanded rapidly in recent years.

2. Harmonization practices are contrary to Québec's core values.

a) They are a Trojan horse that is corroding democracy, equality and our most precious values.

Accommodation or adjustments are granted for reasons recognized by the charters, which reflect the core values that our society has decided to promote democratically. The same is true of the criteria used to evaluate requests (dialogue, integration and reciprocity). If certain bad decisions were made in the past, they arose, above all, because administrators were insufficiently trained to manage intercultural relations.

b) Adjustments bring religion back into public space and contravene the rule of secularism ("we took religion out of the schools and have restored it through the back door").

Harmonization practices do not call into question Québec society's secularism if by that we mean the autonomy of the State and religions and the neutrality of the State in respect of religions. The wearing in schools or hospitals of religious signs is a marginal phenomenon that in no way affects the establishments' autonomy. The "return of the religious" that people fear here is in no way comparable to the Catholic church's ascendancy over various institutions in bygone days. We see no evidence that "minority religions" wish to supplant the former "majority religion." These religions are simply occupying the place the Québec law grants them, like any other religion.

c) Devotions, dietary laws and other rules of this nature are of secondary importance; believers should focus on the basic essentials of their religion, i.e. the credo.

This argument stems from a refined or simplistic conception of Christianity whereby the essence lies in belief and internal moods at the expense of external practice. In many religious traditions, this separation does not exist. For example, in Judaism, belief is less important than respect for the Law. We must, therefore, be careful not to apply to other religions the model with which we are familiar.

3. Harmonization practices threaten social cohesion.

a) Québec is swamped by adjustment requests that are becoming increasingly numerous. We are witnessing a downward spiral.

The statistics available indicate that the number of requests remains minimal, bearing in mind school enrolments and the number of patients admitted to hospitals. Moreover, no datum allows us to confirm that the number of

adjustments appears to be rising. The educational institutions that participated in the Fleury committee's investigation reported that the situation in this respect has been stable for three years.

b) *To accommodate is to circumvent the law, grant privileges and create two classes of citizens. Native-born Quebecers are not requesting adjustments and the law must be the same for everyone.*

Adjustments are intended, above all, to protect minorities against shortcomings in the laws of the majority, not the opposite. They guarantee that everyone enjoys the same rights. As we emphasized in section III, different treatment is sometimes necessary to ensure an equal right. This does not mean granting a privilege but engaging in a reasonable adaptation to counteract the rigidity of certain rules or their uniform application regardless of the specific traits of individuals.

4. Harmonization practices threaten the very survival of Québec culture.

a) *Immigrants are returning us to the past with their religions.*

Immigration in recent decades, through its diversification, has brought to Québec religions that were hardly present or previously unknown (Islam, Hinduism, Buddhism and Sikhism). These religions differ from Christianity and are often linked to African or Oriental cultures that are fairly far removed from Western culture. With the exception of clearly reprehensible practices such as genital mutilation, for example, are we justified in placing difference in the same category as archaism? Is this not a convenient way of rejecting difference instead of endeavouring to understand it?

b) *Islamic fundamentalists rely on the incremental strategy. They are using adjustments to impose their values on native-born Quebecers, to advance their fundamentalist perspective and their project to achieve political conquest inspired by a desire to revolt against the West. Quebecers are wrong not to be more worried about it.*

First, there are few examples in Québec that show that Muslims have sought to impose their values or their religion on non-Muslims. There were a number of isolated incidents, such as the appearance by Imam Saïd Jaziri on a TV5 program. However, in this instance and in several others, we should instead criticize the non-Muslim guests who agreed to submit to the demands expressed, i.e. to avoid drinking wine at the table. As for the rest, among the 60 mosques in Montréal, we know of two or three very conservative ones that preach non-integration into Québec society for moral reasons. However, does this allow us to conclude that there is an "Islamist project"? Finally, is the feared expressed not disproportionate to the demographic weight of Muslims in Québec, who accounted for 2% at the most of the population in 2007?

5. The legal system functions poorly.

a) Because of indulgent judges, the wave of accommodation is out of control. The phenomenon has no limits and is snowballing.

Let us first emphasize that, were the number of adjustments to become excessive, this in itself would be grounds for rejection because of a criterion inherent in undue hardship. The grounds that justify a request for adjustment are not unlimited and are restricted by the charters. If we examine the educational milieu, we note that requests there are clearly managed: they must respect all of the criteria pertaining to undue hardship, comply with the school's general mission, conform to program organization, foster the participation and integration of students, and so on. The same is true of the health sector, where requests are also well managed.

b) The Supreme Court, through religious accommodation, is imposing multiculturalism on Québec.

Harmonization practices often have as a purpose the applicant's integration into the common culture, e.g. in the school, which is not really in the spirit of multiculturalism as we commonly perceive it in Québec. Moreover, the

Supreme Court's interventions until now have been too rare to allow for such a generalization. If we take the case of the sukkah, it is significant that the nine justices were very hesitant in their 5-4 ruling. In the case of the kirpan, the Supreme Court decided in favour of a formula on which the family of the young Sikh and the school principal had agreed at the outset. In fact, reasonable accommodation springs more from the general philosophy of pluralism than from multiculturalism as such.

c) *Through harmonization practices, the charters only protect individual rights at the expense of majority rights.*

As is true of statutes, the charters protect everyone's rights. However, legislation, designed by and for the majority, may wrong one or more individuals. The purpose of accommodation is to remedy these forms of discrimination that are usually unintentional, which can give the impression that the charters do not protect majorities.

d) *Contrary to what specialists claim, adjustments are not granted on a one-time or a case-by-case basis, quite the opposite, they legitimate group practices such as the headscarf, prayer rooms or religious holidays.*

As we have just seen, adjustments remedy shortcomings stemming from the application of legislation in respect of individuals who display certain traits protected by the charters. It is true that certain requests reflect a collective dimension but they are nonetheless handled in an individual framework, on a case-by-case basis. In their assessment, the judges take into account the possibility of "collectivization." Thus, seemingly similar requests are not necessarily handled in the same way (a compromise formula may be accepted in one instance but not in another). A recurrence of the same requests may also lead to the amendment of the norm.

e) *Accommodation in favour of the disabled is warranted since the disability is a constraint, while accommodation for religious reasons is based on beliefs, i.e. on choices and personal preferences.*

Following the international tradition, the Québec Charter considers freedom of conscience, which includes freedom of religion, to be a basic right. Thus, it is nothing less than freedom of thought, defined very broadly, that the charters protect. Would we wish, for example, that the State might impose on citizens their deep-seated convictions? We must not put on the same footing convictions of conscience, which have a structuring nature, and personal preferences, which have a less essential nature.

f) *Because of the courts, accommodation is topsy-turvy: it is not up to the managers to adjust but the believers themselves.*

In law, the duty of accommodation centres, first and foremost, on the manager as a representative of majority power and as the possessor of authority in his relationship with the employee, student or patient. However, the applicant bears some responsibility and is obliged to participate in the search for a compromise. There is an obligation of reciprocity.

6. Many immigrants do not want to integrate.

a) *Those who request adjustments are intransigent, fundamentalists. They refuse compromises.*

This statement makes assumptions about the profile of applicants. We are certainly aware of cases of pure intransigence but also of numerous cases that are the opposite. It is better in this instance to rely on the testimony of managers and interveners in the field. What do they say? That cases of obstinacy are rare and that most situations are resolved through discussion and mutual respect.

b) *Adjustments allow immigrants to reconstitute their culture and to live on the fringes of our society, whose rules they reject. Adjustments are synonymous with "self-exclusion."*

One of the evaluation criteria respecting adjustment requests is precisely the positive impact that such requests can have on integration. The rejection of certain requests risks producing the effect dreaded at the outset, i.e. encouraging certain individuals to withdraw from public institutions and cease to interact with the common culture.

c) *When we are invited to eat in our friends' homes, we don't try to impose on them our own rules.*

The metaphor is attractive but deceptive. The immigrant is neither a guest nor a foreigner. He is at home in Québec and shares the same rights as everyone. When individuals request adjustments, they do not alter other people's beliefs or rules, unless in a very superficial manner, according to the very spirit of the notion of adjustment. If important beliefs and rules are truly affected, there is undue hardship and the request is inadmissible.

d) *If I went to Saudi Arabia or Iran, I would respect Saudi Arabian or Iranian customs.*

This supposition is also deceitful as it places on the same footing Québec and two countries that are hardly sensitive to human rights, i.e. in one instance a firmly rooted democracy and in the other, authoritarian regimes.

Conclusion

Several of the objections that we have just examined betray an obvious lack of information. Others reveal a negative attitude toward harmonization practices. Most of them appear to reveal anxiety. In the next section, we will attempt to recognize the causes of this anxiety and the causes of the discrimination of which minority groups are often the victims. In this way, we can trace Québec's future path.

SECTION VII
AN EVOLVING QUÉBEC

A. Anxiety over identity

As we saw in section II, a considerable number of Quebecers of French-Canadian origin have adopted a very negative impression of harmonization practices, in particular owing to what we have dubbed the crisis of perception. We will now attempt to go back to the underlying causes of this crisis, which public rumours and the role played by the media alone cannot explain.

To all appearances, we must, to this end, examine the **insecurity of members of the minority group, which has been an invariant in the history of French-speaking Québec**. This insecurity has displayed itself recently in several ways, through the resurgence of debate on language, misgivings about globalization, new questioning about the identity and integration of immigrants, and the fear of ghettoization. During our consultations, several interveners made very gloomy comments and occasionally evoked the disappearance of French-language culture. The feeling that there has been a loss of reference points appears to be very widespread at present. Some people believe that the Quiet Revolution destroyed the founding traditions and that the great ideals that sustained it have not been replaced. Here, as elsewhere, the September 11, 2001 attacks have instilled in some individuals a sense of suspicion towards Muslim citizens. To this picture must be added various reasons for dissatisfaction related to job insecurity, economic deregulation and the relocation of businesses, the feeling of alienation or loss of citizen rights in light of what is deemed to be the rampant action of the courts, or the vain search for a consensus on a "major collective project" for Québec.

All of these factors appear to have coalesced in such a way that requests for religious adjustments have spawned fears about the most valuable legacy of the Quiet Revolution, in particular gender equality and secularism. Controversies surrounding prayers prior to municipal council meetings, the crucifix in the National Assembly and Christmas rituals, largely provoked by Quebecers of French-Canadian origin, have been perceived as threats to national traditions. The groundless impression that most immigrants appear to be fervent believers and that their culture is sustained by a more substantial or robust foundation has highlighted the feeling of a symbolic void that afflicts certain French-Canadian Quebecers. Some of them called into question rapid secularization in recent decades, while others reacted to the emergence of "new" religions that appeared to contravene the shift to secularization in Québec society. Finally, the double or even triple affiliation claimed by several members of the ethnic minorities has sometimes been perceived as a form of non-integration into Québec culture and thus as a threat to its survival.

The "wave" of adjustments has opened these old wounds and touched several emotional chords among French-Canadian Quebecers. The result has been an identity counter-reaction movement that has expressed itself by the rejection of harmonization practices. Among some Quebecers, this tension targets immigrants, who have become, to some extent, scapegoats. We believe, however, that the shocking comments that we heard, for example, during the forums, stemmed largely from the anxiety of members of a minority and erroneous perceptions of the immigrant reality. However that may be, it seems that political and social leaders could have done more from the outset to put things back into proper perspective.

A DOUBLE STATUS

It is not always easy for Quebecers of French-Canadian descent to reconcile their double status as members of a majority in Québec and members of a minority in Canada and North America.

What has just happened in Québec may give the impression of a face-off between **two minority groups, each of which is asking the other to accommodate it.** The members of the ethnocultural majority are afraid of being swamped by minorities that are fragile and worried about their future. The conjunction of these two anxieties is obviously not likely to foster integration in a spirit of equality and reciprocity. It hinders the institution of a majority-minority relationship that conforms to the intercultural ideal.

However, it must be agreed that for Quebecers of French-Canadian descent, the combination of their majority status in Québec and their minority status in Canada and North America is not easy. It is a difficult apprenticeship that began in the 1960s and, which, obviously, is not over. However, French-speaking Québec espouses values of reception and solidarity. This is a message that everyone has read or heard for some time. We believe that these values do indeed exist but that they are not fully expressed because of anxiety over identity. We also think that this impediment in itself adds to the malaise.

The identity inherited from the French-Canadian past is perfectly legitimate, but it can no longer occupy alone the Québec identity space. It must hinge on the other identities present, in a spirit of interculturalism.

French-speaking Québec is a minority culture and needs a strong identity to allay its anxieties and behave like a serene majority. This is the first lesson that we should draw from recent events. The identity inherited from the French-Canadian past is perfectly legitimate and it must survive, but it can no longer occupy alone the Québec identity space. It must hinge on the other identities present, in a spirit of interculturalism, in order to prevent fragmentation and exclusion. All in all, it is a question of sustaining through symbols and imagination the common public culture, which is made up of universal values and rights, but without disfiguring it. Québec must now apply itself to this difficult task.

B. The challenge posed by diversity in the West

Before we go any further, it would be useful to note that Québec society's recent experience is neither unusual nor special. **A number of Western nations are experiencing malaises that resemble those expressed during debate on accommodation.** We might assert that the main source of such malaise is the growing ethnic diversification of Western societies. During the 1950s, countries such as France, the United States and Canada were already diversified, but others such as Denmark were virtually homogeneous. Countries such as Germany and England are experiencing fairly pronounced anxiety over identity although they are not subject to the same linguistic and culture pressures as Québec is.

If certain analogies can be made between the situation in Québec and that in other Western nations, it is important, however, to ascertain how they differ. Fears that may be warranted elsewhere are not justified here.

Fears that may be warranted elsewhere are not justified here.

Thus, we must first note that Québec has welcomed immigrants for a long time and that they are contributing significantly to the development of society. Québec has integrated this understanding of the situation and perceives itself as a host society.

Unlike Québec and Canada, during the post-war period, a number of European countries did not perceive themselves to be countries of immigration although millions of immigrants entered them. They regarded the newcomers as simple visitors, temporary workers who, in exchanges for the wages that they could not obtain in their country of origin, performed tasks essential to the economy that natives of the country were unable or did not wish to perform. Today, we can see the utopian nature of this arrangement. The children of immigrants now live in major German cities and the Paris

suburbs who have lost a good part of their culture of origin without being able to integrate into the host society. They live in prosperous consumer societies without being able to participate in them. They feel that they are the victims of discrimination, alienated and stripped of their rights. Some of them are on the brink of revolt.

Certain European countries are facing serious problems linked to the emergence of underprivileged urban zones, which are inhabited by under-qualified populations and are the hub of tensions that are exacerbated by a keen sense of injustice and rejection. Mistrust and resentment obviate the potential benefit of social programs that are initially well designed but often poorly received by the communities for which they are intended. Gestures of discontent and revolt irritate the more privileged classes and undermine the majority's goodwill (it becomes hostile to the search for solutions). Against this backdrop, strong xenophobic right-wing movements flourish.

The situation in Québec is much different, in at least four respects:

a) Marginalization factors exist in Québec, but they are not of the same magnitude as in certain European countries. We do not observe in relations between immigrants and the host society a comparable level of tension and socioeconomic exclusion. Furthermore, we must do everything possible to avoid a downward spiral in this respect.

b) Over 60% of the immigrants who arrive in Québec are selected in light of their occupational and linguistic skills, with the result that they are generally better educated than the average member of the host society. This is a far cry from the situation of under-educated immigrant populations in certain German and Dutch cities or in certain French suburbs.

c) A number of immigrants come from the middle class and thus share in many ways the lifestyle of numerous Quebecers. It is a known fact that the middle classes much more closely resemble each other through their lifestyle than the less privileged classes.

d) Immigrants in the European countries are often the nationals of former colonies, e.g. Indians and Pakistanis in England and North Africans in France. To all of the other grounds for alienation must be added the painful recollection of colonization and exploitation. Many North Africans told us during our consultations that they decided to immigrate to Québec instead of France because they feel more accepted and free of the burden stemming from the memory of a longstanding relationship of domination.

C. Inequality and discrimination

All of these favourable conditions should enable us to effectively combat discrimination. However, as long as Quebecers of French-Canadian origin feel anxiety over their identity, they risk displaying little sensitivity to the genuine problems of ethnic minorities. The condition of underprivileged minorities and the discrimination that they experience are, however, realities with which we must deal.

1. Highly qualified immigrants

Surveys conducted in 2005 and in 2006 reveal strong support (roughly 70%) for immigration among Quebecers. Such support is sometimes higher than in English Canada, sometimes lower. Overall, both societies display a highly positive stance in this respect, well above the average in Western nations. Since the late 1940s, Québec has always ranked among the top 10 industrialized societies with the highest per capita immigration rates.

Immigration has been constant throughout Québec's history but without ever resembling the "submerging" that certain interveners mentioned during our consultations. According to the 2006 Census, immigrants account for 11.5% of the total population, compared with 6.6% in 1871 and 8.8% in 1931. Moreover, Québec selects over two-thirds of all newcomers, irrespective of category. In recent years, it has recruited highly qualified immigrants who have a markedly higher level of education than the average members of the host society. According to the 2006 Census, 14.7% of Quebecers born in Canada have studied in university, compared with 27% in the immigrant population. Moreover, it reveals that 51.8% of Quebecers born in Canada in the labour force have a postsecondary diploma, as against 57.9% of immigrants.

QUALIFIED IMMIGRANTS

According to the 2006 Census, 14.7% of Quebecers born in Canada have studied in university, compared with 27% in the immigrant population.

Another phenomenon is noteworthy: the number of immigrants settling in the regions has been rising for several years. Among the newcomers admitted to Québec between 1996 and 2000, 17 239 were living outside the Montréal area five years later. Between 2001 and 2005, this number stood at 29 325. This perhaps marks the beginning of a pronounced trend and it should be encouraged. Several factors make a good case for the regionalization of immigration:

a) All regions are keenly seeking immigrants to attempt to counteract the ageing of the population, the exodus by young people, demographic decline, labour shortages and the economic downturn. This is one of the most striking pieces of information to emerge from our consultations.

b) Most of the participants in the hearings or forums were highly receptive to immigration. In some regions, towns even compete to attract recruits.

c) On the strength of extensive testimony, we observed that, in general, the immigrant population integrates smoothly in the regions, which is confirmed by a recent Statistics Canada study that reveals that the immigrants' incomes are higher in small urban centres and rural areas than in metropolitan areas.

d) Several agencies dedicated to recruiting and welcoming immigrants or refugees have been established in regional cities and even in certain towns. In a number of places, these agencies are coupled with very active associations that seek to promote the quality of intercultural relations.

e) The municipalities and regional bodies have elaborated policies, guides, action plans and programs with a view to facilitating the reception and integration of immigrants. A number of cities are investing heavily in this field.

2. The precarious condition of immigrants

Despite these data, the immigrant population often lives in precarious conditions and is affected, in particular, by underemployment and poverty. The unemployment rate among immigrants between 25 and 54 years of age who have lived for less than five years in Québec is nearly three times higher than the rate among native-born Quebecers. After five to 10 years, it is over twice as high. **Several studies have shown that a large part of the immigrant population has difficulty finding quality employment commensurate with the skills and experience acquired.** Among the contributing factors, mention should be made of reluctance to recognize training and experience acquired abroad, insufficient knowledge of the language, overly stringent conditions governing access to occupations and professions, skill profiles that do not meet employers' needs, the excessive concentration of newcomers in the Montréal area, general job insecurity, and discriminatory practices experienced, in particular, by racialized groups (immigrants from Asia, the Middle East, Africa and Latin America).

We heard extensive testimony from engineers or architects who are working as taxi drivers, lawyers who are serving as clerks, judges employed as workmen, or teachers washing dishes or making deliveries. Those who were unable to find such jobs said they were deeply humiliated and embarrassed to have to rely on social aid when their professional background had prepared them to be autonomous, responsible citizens.[7]

IMMIGRANTS HAVE PRECARIOUS LIVING CONDITIONS
Among immigrants between 25 and 54 years of age who have lived for less than five years in Québec the unemployment rate is nearly three times higher than the rate among native-born Quebecers. After 5 to 10 years, it is over twice as high.

The problem of the under-representation in the public service of members of the ethnic minorities has been well known for a long time and has not yet been resolved. These groups accounted for 11.4% of Québec's labour force in 2001 but only 3.7% of workers in this sector in 2007. The situation in Québec in this respect appears to be one of the worst in North America. The ethnic minorities are also largely under-represented in political staff, on boards of directors and in other decision-making centres. Almost without exception, they are scarcely present in the media. The public thus has few opportunities to grasp Québec's diversity.

Regardless of their level of education, immigrant women are harder hit than men by underemployment and poverty. In 2001, they earned less than two-thirds the salary of immigrant men. Criteria governing the recruiting of potential immigrants, centred on occupational qualifications and the business sector, favour men. Women are thus over-represented in the "family reunification" and "sponsored immigrant" categories, which explains their

7 "We would like to feel useful to the society that welcomed us" (comment by a Colombian refugee in a focus group held on October 25, 2007 in Trois-Rivières).

state of greater dependency in the host society. Muslim women, especially those who wear the headscarf, appear to be more affected than the others. Extensive testimony revealed that it is especially difficult for them to find work. However, the 2006 Census data reveal that 24.4% of immigrant women have a university degree, compared with 16.5% for Quebecers overall.

All of these data bear witness to a difficult situation fraught with hardship and anxiety and occasionally tinged with distress. However, the testimony of immigrants that we heard during discussions with the focus groups and our public consultations[8] often revealed to us remarkable acts of courage, tenacity and solidarity. One recurring model emerges from the participants' experience: parents are willing to undergo a significant drop in social standing and extend their work week for the benefit of their children, in whom they invest their "American dream."

3. Racism and discrimination

Québec has adopted tools to combat discrimination and racism. Mention should be made, among others, of the Québec *Charter of Human Rights and Freedoms*, the *Déclaration de 1986 sur les relations interethniques et interraciales*, equal employment opportunity programs for disadvantaged groups, programs designed to foster the development of ethnic minorities, the adoption by many public institutions of antiracist policies, the programs of the ministère de l'Immigration et des Communautés culturelles, the fight against racial profiling, and the program that the government is slated to announce in the spring of 2008 to more effectively combat racism and discrimination.

DISCRIMINATION PERSISTS
Despite the tools that the Québec government has adopted, between 20% and 25% of Quebecers claim to have been the victims of discrimination over the past three to five years.

8. Among the most remarkable testimony that we heard in this respect, let us mention that of Thi Cuc Tan, one of the Vietnamese boat people, who testified at the hearings in Montréal, and that of Tuyen Vo

Tools to combat discrimination exist but they do not appear to be used as much as they should be in conjunction with concrete initiatives. An analysis of the findings of recent studies leads us to conclude that between 20% and 25% of Quebecers claim to have been the victims of discrimination over the past three to five years, mainly in the workplace. This proportion doubles in racialized groups. During our consultations, we also heard about numerous cases of discrimination. Here are some examples: a young Muslim pharmacy student who wears a headscarf was refused for a training session by 50 pharmacists before she found an Arab pharmacist willing to accept her; a 17-year-old Muslim girl who also wears a headscarf is regularly insulted at school and in the street, but her mother has taught her never to respond, since she does not want to "instil hatred in her;" an immigrant woman who was at the top of her class at the Université de Montréal submitted 200 applications for a training session and received as many refusals; a newcomer, an engineer, managed several hundred employees in his country of origin but has been unable to find a job here (he has sent his curriculum vitae to 250 firms).

Muslims and, in particular, Arab Muslims, are the group most affected by various forms of discrimination. Strangely, the accommodation cases concerning the Muslim community subject to the widest media coverage all concerned activities involving participation in or integration into Québec society.

At the root of discrimination are stereotypes, which are both the cause and consequence of stigmatization. A number of Quebecers have a negative image of all ethnic minorities that they then attribute to individual members of the groups. The slightest incidents are exploited to sustain and perpetuate negative impressions that the media machine often espouses, thus to some extent giving them credence.

Muslims and, in particular, Arab Muslims, are, with Blacks, the group most affected by various forms of discrimination. We believe that vigorous soul-searching must be undertaken in this regard to avoid the very thing that a number of Quebecers fear, i.e. the marginalization and radicalization of numerous Muslims as a result of the humiliations to which they have unjustly been subjected, above all since the September 11, 2001 attacks. **The way to overcome Islamophobia is to draw closer to Muslims, not to flee them.** In this respect, it should be noted that the accommodation cases related to Muslims that received the widest media coverage all concerned activities related to participation in or integration into our society, i.e. the visit to the sugarhouse, participation in soccer and taekwondo tournaments, the wearing of a headscarf in a public school, and so on. In this matter, our forums made an important contribution by revealing the reality of immigrants' lives, beyond stereotypes.

As for the headscarf, which has aroused considerable agitation in recent years, we believe that we can now take it for granted that the girls or women who wear it attach different meanings to it. While we acknowledge the need to combat different forms of submission and oppression, do we not risk infringing on the rights of citizens who wear a headscarf of their own volition by proposing a radical measure that would purely and simply prohibit the wearing of headscarves?[9] Why cannot individuals display their deep-seated convictions if they do not infringe other people's rights?

The recent increase in anti-Semitic incidents in Québec is disturbing. During our forums, we realized to what extent the Jewish community is unfairly accused concerning kosher certification. It is in Québec society's interests to get to know the Jewish community better, e.g. over 80% of young Jews (under 35 years of age) speak French and the vast majority adhere to Quebecers' shared values. In Montréal and in the regions, awareness initiatives should be implemented to overcome anti-Semitism.

9 Mohamed Chraibi, testifying on November 15, 2007 in Laval, noted that "no one has the right to force a woman to wear a headscarf or prohibit her from doing so." Another participant at the same hearing, a Muslim woman wearing a headscarf, said "my body belongs to me and I show what I want of it."

To conclude on this topic, let us remember that no information allows us to confirm that discrimination is more prevalent in Québec than elsewhere. Considering the number and variety of immigrants that Montréal has welcomed in recent decades, this point is noteworthy. There are few ethnic enclaves and cases of racist violence are rare. We also note that, contrary to many European countries, no extreme right-wing political party has succeeded in establishing any sort of electoral base in Québec.

Looking to the future

As we can see, debate on harmonization practices is linked to factors that are crucial to the future of Québec society. This undoubtedly goes a long way to explaining why this debate reached such a level of intensity in 2006 and the first months of 2007. We believe that it is now important to seize the opportunity and take advantage of the mobilization spurred by this debate to build a credible vision of the future that is promising for all Quebecers.

TO BUILD A PROMISING FUTURE, QUÉBEC SOCIETY MUST:

a) solve the problem of underemployment, poverty, inequality and discrimination;
b) reject fear and the temptation to look inward;
c) perceive multiethnicity otherwise than as an array of juxtaposed groups;
d) avoid directing towards any religion resentment felt over Québec's Catholic past;
e) be more aware of the repercussions that outbursts of temper in the majority group can have on minorities.

1. Deadlocks to be avoided

First of all, it may be useful to examine several dead ends and also to emphasize the essential conditions of a promising project.

a) Regardless of the formulas that our society elaborates to combine cultural differences and conceive of a common future, they will be largely doomed to fail unless certain conditions are established beforehand, i.e. the fight against under-employment, poverty, inequality, inadmissible living conditions, and various forms of discrimination.

b) French-speaking Québec must not succumb to fear, the temptation to withdraw and reject, nor don the victim's mantle. In other words, **it must reject this scenario of inevitable disappearance**. As a result of their own choices, the proportion of Québecers of French-Canadian origin is declining, from 80% of Québec's population in 1901 to 77% in 1991. This drop, while slow, will probably continue, and Québec will have to rely increasingly on immigration. However, through the contribution of French-speaking immigrants, this trend can be offset: the proportion of Québecers whose mother tongue is French now verges on 80%. When account is taken of all Québecers who usually speak French in the home, the figure stands at 81.8%.

c) Another mistake would be to conceive the future of multiethnicity as so many juxtaposed separate groups perceived as individual islets, which would mean replicating in Québec the most severely criticized facet of multiculturalism.

d) Another pitfall pertains to religion. French-Canadian Québecers have unpleasant memories of the period when the clergy wielded excessive power over institutions and individuals. However, this hypersensitive memory may be a poor reference in respect of secularism. The danger lies in directing against all religions a feeling of hostility about the Catholic past, at the cost of marginalizing certain groups of citizens and fragmenting our society.

e) Quebecers of French-Canadian origin must also be more aware of the repercussions on minorities of their anxieties. Minority groups have undoubtedly been alerted over the past two years by the image of an ethnocultural majority that is apparently unsure of itself and subject to outbursts of temper.

On the other hand, two factors seem to bode well for the edification of a promising future. First of all, we note in the young generations (especially among 18- to 24-year-olds) considerable receptiveness concerning the way in which they perceive and experience intercultural relations. This leads us to believe that age-old anxiety over the French-Canadian identity might be experienced differently in the future without compromising faithfulness to the past. Next, it appears that certain social divides that are sometimes mentioned in public debate are not as important as we might think. We are referring here to the supposed divide between Montréal and the regions: several surveys conducted over the past year have revealed no noticeable difference in perceptions and attitudes in respect of accommodation. Reliable studies reveal that, contrary to certain perceptions, the Montréal area is not ghettoized. In Montréal, ethnic enclaves are much rarer than in Toronto and Vancouver, and ethnic concentration was stable between 1981 and 2001.

POSITIVE FACTORS

a) **The upcoming generations are displaying considerable receptiveness to intercultural relationships.**

b) **There is no obvious divide between Montréal and the regions on the question of harmonization practices.**

c) **Contrary to certain beliefs, the Montréal area is not ghettoized.**

2. The edification of a common identity

To plan for its future, Québec society must naturally rely on its own integration model. As we have seen, interculturalism fosters the edification of a common identity through interaction between citizens of all origins. Moreover, we believe that this process is solidly under way in at least eight avenues or spheres. Let us point out that, in keeping with the rule of law and the imperatives of pluralism, the identity that we are edifying must be able to develop as a **citizen culture**, i.e. all Quebecers must recognize themselves in it and achieve self-fulfilment through it. Below are the eight avenues to be emphasized.

1. French as the common public language. The intercultural approach would hardly have any meaning if Quebecers were unable to communicate with each other in the same language.

2. The development of a feeling of belonging to Québec society through the schools, civic life, intercultural exchanges, knowledge of the territory, and so on.

3. The exploration and promotion of common values as rallying points, a source of solidarity and factors in the definition of a future or a horizon for Québec, e.g. pluralism, equality (especially gender equality), secularism, non-discrimination, and non-violence.

4. The edification of a genuine national memory that takes into account ethnocultural diversity and makes Québec's past accessible to citizens of all origins.

5. Contributions linked to artistic and literary creation, which foster the development of a common imagination sustained by cultural diversity.

6. Citizenship participation and societal choices that help to establish values and basic guidelines in policies and programs. Over time, these choices give rise to a political mentality and national traditions.

7. The associative idea that places intercultural exchanges in the realm of concrete, citizen action. It encourages intercommunity initiatives and all forms of projects that assemble individuals from different ethnocultural milieus.

THE EDIFICATION OF A COMMON IDENTITY IS ALREADY UNDER WAY
It is following an array of paths that must be encouraged: the use of French, the sharing of common values and memory, intercommunity initiatives, citizenship participation, artistic and literary creation, and the adoption of collective symbols.

8. Symbols of collective life. Repeated interaction with institutions in Québec society lead to the internalization of the attendant language, rituals, symbols and codes.

This list is not exhaustive. It can be enriched by other factors that contribute to the redefinition of a Québec identity asserted in a spirit of respect for ethnocultural diversity and the pluralist philosophy that Québec has adopted, without harming the French-Canadian heritage to which, precisely, this identity opens new horizons.

SECTION VIII
PRIORITY RECOMMENDATIONS

Below is a summary of our priority recommendations. The full report presents the entire array of recommendations. Our recommendations follow five key themes:

1. First of all, they call for a definition of new policies and programs pertaining to interculturalism (legislation, a declaration or a policy statement) and secularism (a proposed white paper).

2. Several recommendations are linked to the central theme of integration and focus primarily on: *a*) recognition of immigrants' skills and diplomas; *b*) francization programs; *c*) the need for more sustained efforts to regionalize immigration; and *d*) the need for enhanced coordination between government departments.

3. From the standpoint of intercultural practices and mutual understanding, our recommendations highlight: *a*) the need for broader training of all government agents in public establishments, starting with the schools, because of the role they play in socialization; and *b*) the need to further encourage community and intercommunity action projects.

4. In keeping with the harmonization policy formulated in our report, our recommendations are intended to foster the accountability of interveners in the citizen sphere (public and private agencies) by ensuring that they have received adequate training. We are asking the government to ensure that the practical knowledge acquired in institutions be recorded, promoted and disseminated in all of the milieus concerned.

5. Another priority field is the fight against inequality and discrimination. Our recommendations in this respect focus primarily on: *a*) the under-representation of ethnic minorities in the public service; *b*) the urgency of combating the numerous forms of discrimination, Islamophobia, anti-Semitism and racism to which racialized groups are subject, especially Blacks; *c*) the support to be offered immigrant women; *d*) the need to increase the resources of the Commission des droits de la personne et des droits de la jeunes;e; and *e*) the strengthening of economic and social rights in the Québec Charter.

CONCLUSION

The rationale underlying our report stems from three intersecting themes: *a*) interculturalism; *b*) open secularism; and *c*) harmonization practices. For each of these themes, we have sought to find balanced positions. In the case of interculturalism, it is a question of reconciling the imperatives of pluralism stemming from the growing diversification of our society and the necessary integration of a small nation that constitutes a cultural minority in North America. The system centred on open secularism, as we have defined it, hinges on a delicate balance between its four main components, i.e. freedom of conscience, the equality of citizens, the reciprocal autonomy of Church and the State, and the neutrality of the State. The policy respecting harmonization practices takes into account both the desirable or necessary changes and respect for other people's rights and the smooth operation of institutions.

Will we play the mutual trust and integration card or will we shift towards mistrust, which will engender and exacerbate the very effects that we are seeking to avoid?

This general guideline, based on the search for balance, has a twofold advantage. First, it avoids radical solutions, which are always to be feared in the realm of intercultural relations. Second, it is in keeping with the procedures adopted by public and private institutions and agencies in Québec. For these reasons, we believe that it is in Québec society's interests to accept these moderate proposals, designed to ensure in the long run the fair treatment of all of the groups in question.

Because of its predominant weight in institutions and collective decision-making, the majority ethnocultural group must assume foremost responsibility for the definition of these collective policy directions. However, the question remains the same for all Quebecers: will we play the mutual trust and integration card or will we shift towards mistrust, which will engender and exacerbate the very effects that we are seeking to avoid, i.e. rejection, withdrawal, ghettoization and fragmentation? Until now, our society has guarded against such ills, which must be a source of satisfaction.

It would be unfair to demand that minority nations display the assurance of imperial nations.

All citizens and social stakeholders are concerned by the choices that Québec must make. Our objective is clear. Our deliberations and reflections have firmly convinced us that **integration through pluralism, equality and reciprocity is by far the most commendable, reasonable course.** Like all democracies in the world, Québec must seek to reach a consensus against a backdrop of growing diversity, renew the social bond, accommodate difference by combating discrimination, and promote an identity, a culture and a memory without creating either exclusion or division.

It would certainly be unfair to demand of small minority nations somewhat mistreated by history and constrained to grow by following a perilous course the assurance of imperial nations. In the course of their history they have advanced and withdrawn and experienced surges and doubts. It is important to understand the experience of French-Canadian Quebecers. They are members of a small minority nation in North America and their culture encompasses vivid recollections of humiliation, oppression sustained and overcome, struggles for survival, and battles that they have had to wage singlehandedly, without being able to rely on an external ally. From this past has emerged nonetheless a taste for the future and a desire for self-fulfillment,

self-assertion and openness. The French-Canadian heritage speaks of recovery, pride, courage and daring. These qualities are not lacking in immigrants, who have been uprooted from their environment and most of whom must follow a difficult path to rebuild their lives in their new country. It is on this common ground, that of founders, men and women, that reconciliation and solidarity must become rooted.

Québec is at a turning point. Its future depends on the choices that Quebecers make.

Many Quebecers appear to have learned a lesson from the accommodation crisis. From the media and elected representatives to the managers of public and private organizations, it is the entire governing class that has become more concerned about its responsibilities in respect of the quality of collective integration and the questions pertaining to it. This, at least, is what the tone of public debate, more reserved and subtle in recent months, suggests. We also believe that the vast majority of Quebecers share this new mindset.

Québec is at a turning point. A very important exercise will be played out over the next 5 to 10 years whose purpose will depend on Quebecers themselves. It may be decisive for the future of our society.

Commission
de consultation
sur les pratiques
d'accommodement
reliées aux différences
culturelles

Québec